COUNCIL ASSESSMENT REPORT

NORTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSNTH-172 – DA 22/0408
PROPOSAL	Construction of residential flat buildings comprising 79 residential apartments comprising of 3 x 4 storey buildings and 1 x 2 storey building with a common basement
ADDRESS	Lot 46 DP 1264557 – No 6 Grand Parade Casuarina
APPLICANT	Town Planning Alliance (NSW)
OWNER	Azure Project 35 Pty Ltd
DA LODGEMENT DATE	7 July 2022
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Clause 2, Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021:* Development that has a capital investment value of more than $30 million.
CIV	$66,575,000.00 (excluding GST)
CLAUSE 4.6 REQUESTS	N/A
KEY SEPP/LEP	SEPP 65 (ADG) and Tweed LEP 2014
TOTAL & UNIQUE SUBMISSIONS & ISSUES	Seven (7) submissions (objections)
DOCUMENTS SUBMITTED FOR CONSIDERATION	Architectural plans, Statement of Environment Effects, SEPP 65 Report, Landscape Plans, Civil plans and Report, Survey, Waste Management Plan, Traffic Report
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	Not applicable
RECOMMENDATION	Refusal
DRAFT CONDITIONS TO APPLICANT	N/A
SCHEDULED MEETING DATE	23 October 2023
PLAN VERSION	Rev 1 dated 14 August 2023
PREPARED BY	Kim Johnston (DPE Consultant)
DATE OF REPORT	10 October 2023

EXECUTIVE SUMMARY

The development application (DA 2022/00408) seeks consent for the construction of a residential apartment development consisting of 79 apartments within 3 x 4 storey buildings and 1 x 3 storey building over a common basement and provision of 175 car spaces ('the proposal'). Earthworks, landscaping and services are also proposed.

The proposal in this assessment report refers to the proposal as outlined in the amended plans, which were lodged following a request for additional and amended information by Council in March 2023. The application is referred to the Northern Regional Planning Panel ('the Panel') as it is 'regionally significant development', being development with a capital investment value of more than $30 million. A concept approval remains relevant to the site, which allows for permissibility and a height limit of four (4) storeys.

The site is known as 6 Grand Parade, Casuarina which comprises a large vacant lot within a newly created area, with frontages to Grand Parade, Habitat Drive and Casuarina Way and a Council-owned drainage reserve. The site consists of an area of 7,354m² with no significant natural site features and a gentle fall of approximately 2% from the northeast corner to the southwestern corner to the drainage reserve. The surrounding uses comprise residential and commercial development, with the town centre to the west, multi storey building (*PAMA)* to the north and proposed shop top housing developments and detached dwellings to the east.

The application was publicly exhibited from 3 August 2022 to 17 August 2022, with seven (7) submissions received, all objecting to the proposal. The issues raised included height, waste, noise, privacy, overdevelopment, streetscape, setbacks, traffic, vehicle access, car and bicycle parking and fencing. There were no concurrence or integrated development requirements however, a referral to Essential Energy pursuant to *State Environmental Planning Policy (Transport and Infrastructure) 2021*, raised safety concerns.

The site is in the R1 General Residential and E1 Local Centre zones pursuant to Clause 2.2 of the *Tweed Local Environmental Plan 2014,* with the other principal planning controls including *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* ('SEPP 65') and the *Tweed Development Control Plan 2008*.

The proposal is inconsistent with various provisions of the planning controls including:

- Design quality principles of SEPP 65 including Principle 1 (Context and neighbourhood character), Principle 2 (built form and scale), Principle 4 (sustainability), Principle 5 (landscape), Principle 6 (amenity) and Principle 9 (aesthetics);

- Provisions of the Apartment Design Guide ('ADG') including

  - ***Part 3E: Deep Soil Zones*** (DSZ) - The proposal involves a DSZ comprising 328m² with a minimum dimension of 6m, which represents 4.46% of the site, a shortfall of 186.78m² of DSZ on the site in accordance with the requirements of the design criteria and a 775.1m² shortfall in the Design Guidance (sites >1,500sqm).
  - ***Part 3F: Visual Privacy*** – The required building separation is only achieved through blank walls and external fixed screening which compromises access to light, air and outlook from habitable rooms and private open space, reducing the amenity of the apartments. The communal open space and access paths are not adequately separated from private open space and habitable room windows.
  - ***Part 3G: Pedestrian access and entries*** – The access and entries to Building D are located above street level, resulting in stairs and retaining walls to the street.

- ***Part 4B: Natural Ventilation*** – The proposal does not satisfy the design criteria in that only 51.8% of the proposed apartments are naturally cross ventilated, when a minimum is 60% is required.
- ***Part 4D: Apartment Layout*** - The proposal involves various habitable rooms without windows, apartments with a window to a void area and apartments with room depths exceeding the maximum room depth of 8 metres.
- ***Part 4F: Common Circulation Space –*** The proposal involves a number of living and bedroom windows which open directly onto common circulation spaces, including communal open spaces areas and void/circulation areas.
- ***Part 4H: Acoustic Privacy*** – There are a number of proposed apartments which are proposed directly adjoining the communal open space and bedrooms directly adjoining the lift core.
- ***Part 4M: Facades*** - The proposed facades are unsatisfactory as the faux heritage stylistic appearance accentuates the bulk and scale and is inconsistent with existing development. The facades also lack a defined base, middle and top and changes in materials to modify the prominence of elements.
- **Part 4N: Roof Design -** The proposed roof design adds significant bulk and scale to the development and is inconsistent with the prevailing character of the area which generally comprises sloping, lightweight metal roofs, particularly the roof of Building D which is of an excessive scale and encroaches into the front setback.

- Various controls of the TDCP 2008 in relation to building design, deep soil and impermeable area, streetscape and a lack of a bulk waste area and bicycle parking.

The key issues associated with the proposal included:

1. Building Design
2. Deep Soil Zones and Landscaping
3. Proximity to Electrical Infrastructure
4. Natural Ventilation
5. Apartment Design and Layout
6. Building Separation
7. Privacy Impacts
8. Streetscape and front setback
9. Bicycle Parking and Bulk Waste Storage

The jurisdictional prerequisite to the grant of consent imposed by Clause 30(2) of SEPP 65 has not been satisfied as it has not been demonstrated that adequate regard has been given to the design quality principles and the objectives specified in the ADG for the design criteria (deep soil zones, natural ventilation and apartment layout). Therefore consent cannot be granted.

Following assessment of the matters for consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979 ('EP&A Act'), the provisions of the relevant State environmental planning policies, in particular SEPP 65, the ADG, TLEP 2014 and TDCP 2008, it is considered that the proposal cannot be supported. The key issues of building design, proximity to electrical infrastructure, natural ventilation, apartment layout and building separation, streetscape concerns and potential privacy impacts result in the proposal being unacceptable.

The application is recommended for refusal subject to the reasons at **Attachment A**.

Contents

1. THE SITE AND LOCALITY

1.1 The Site

The site comprises a vacant lot within the Casuarina Town Centre, a recently constructed locality within Casuarina, a small coastal town approximately 18 kilometres south of Tweed Heads (**Figure 1**). The concept approval for the locality (discussed further below) consists of a variety of uses and lot sizes including three (3) lots for four (4) storey development (including this site) and five lots for three (3) storey development. The remaining lots are standard low density lots and small lot housing lots with sizes ranging from 227m² to 524m².

Casuarina shopping centre is located to the west of the site, on the opposite side of Casuarina Way, and Casuarina Beach is located approximately 260 metres to the east of the site.

The site is bounded by a number of local roads including Grand Parade to the north, Habitat Drive to the east and Casuarina Way to the west. A bio-retention basin adjoins the site to the south as well as a pedestrian pathway linking Habitat Drive with Casuarina Way and the commercial uses on the opposite side of Casuarina Way. A bus stop is located on the site's frontage to Casuarina Way.

The Cudgen Nature Reserve, managed by the NSW National Parks and Wildlife Service, is located to the west beyond the shopping centre. Various holiday apartment complexes and low and medium density residential development comprise the remainder of the locality. Tweed Coast Road is the primary access route for the Tweed coast villages and is approximately 165 metres to the west of the site and provides access to the Pacific Motorway (M1) to the north and south of the site. Bus services are available along Casuarina Way and there are four (4) primary schools and one high school within a 5km radius of the site.

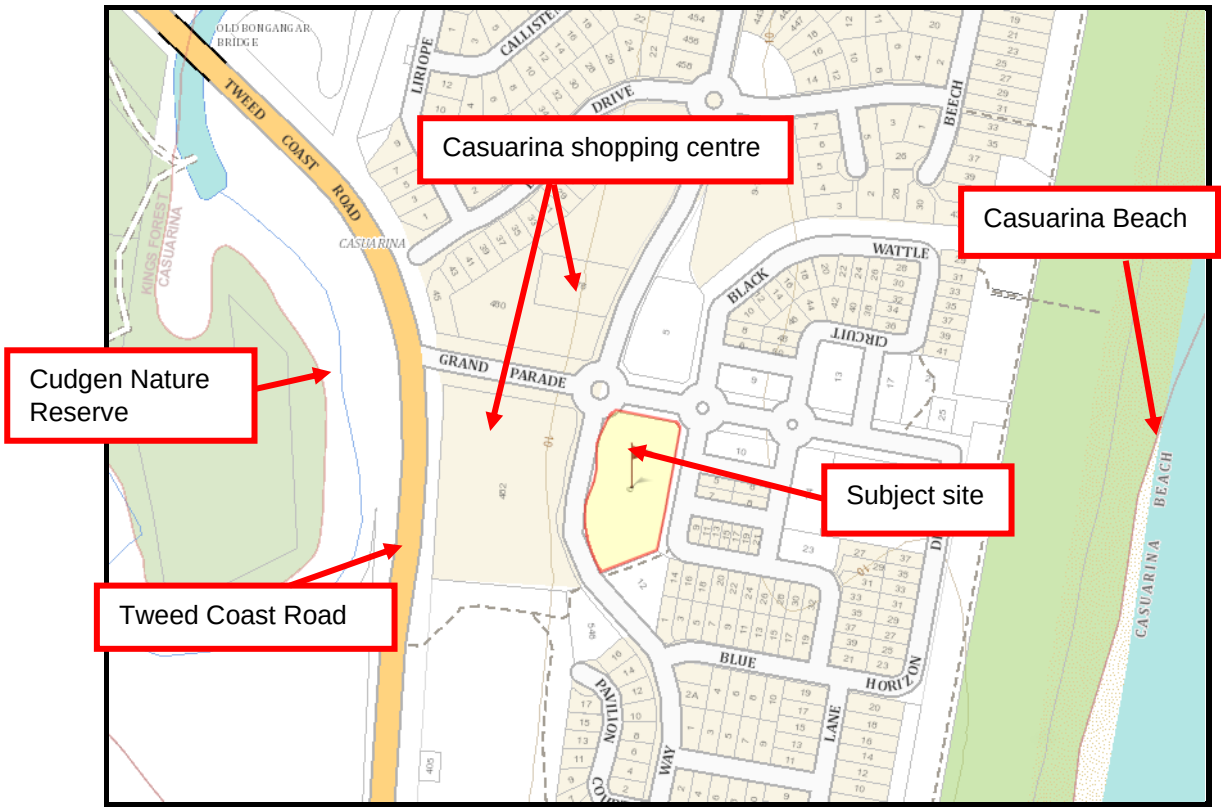

Figure 1: Site Location (*Source: SIX Maps*)

The northern boundary comprises approximately 48.325 metres to Grand Parade, while the southern boundary to the drainage reserve is approximately 50 metres. The Casuarina Way (western) boundary is irregular and is approximately 132 metres and the Habitat Drive (eastern) boundary is approximately 100 metres. The total site area is approximately 7,354m².

The site is currently vacant with no significant natural site features, comprising managed grassland with established footpaths and street planting adjoining the site and the general vicinity. The site falls gently at a grade of approximately 2% from the northeast corner (RL 8.7m) down to the low point of the site is in the southwestern corner adjoining the drainage reserve (RL 6.35m), known as Lot 27.

The site is located within a recently established urban area with existing connections to all the necessary urban services including sewer, water, stormwater, electricity and telecommunications.

The site has previously been filled as part of the Casuarina Estate and has reasonably poor drainage as outlined in the Geotechnical report.

The site is illustrated in **Figures 2** to **5**.

Figure 2: The Site looking west towards the commercial area

Figure 3: The site looking north

Figure 4: Pedestrian walkway adjoining the site along the southern boundary

Figure 5: Bioretention basin adjoining the site

1.2 The Locality

The site is located within a new mixed use and residential subdivision with some of the surrounding lots currently being developed. Commercial development comprising a shopping centre, restaurants, retail premises, offices, gym and a childcare centre is located immediately to the west and northwest ('The Commons') of the site along Casuarina Way (**Figures 6** & **7**).

Figure 6: Development to the west of the site along Casuarina Way

Figure 7: Development to the west of the site along Casuarina Way – The Commons

A four (4) storey residential apartment development, known as PAMA, has been approved for the site to the north, known as No 5 Grand Parade (DA21/0637 & PPSNTH-130) (**Figure 8** & **9**). This approved development comprises 47 units with basement parking.

Figure 8: Existing site to the North – approved PAMA development

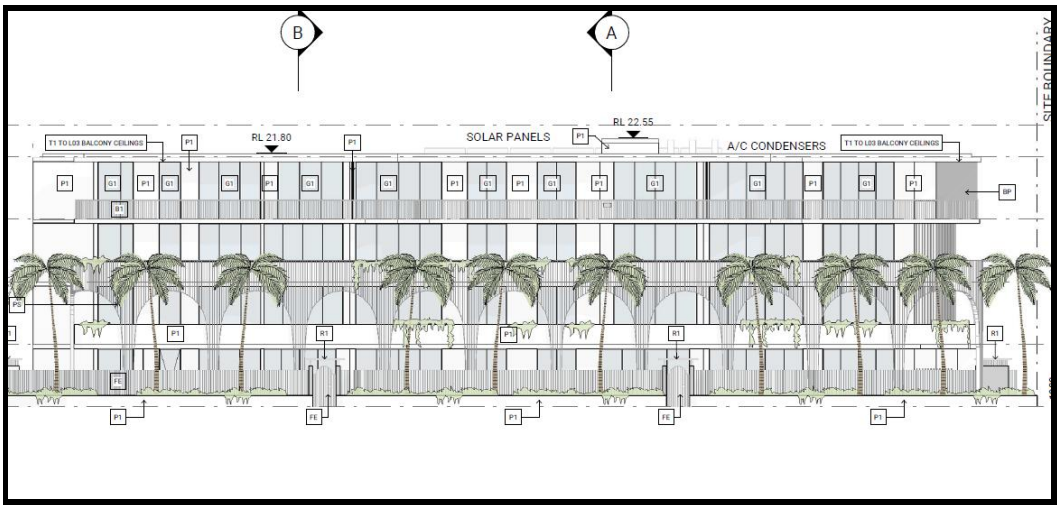

Figure 9: Approved development - PAMA -Grand Pde elevation (Source: NSW Planning Portal)

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The adjoining site to the east, on the opposite side of Habitat Drive, is the subject of a current development application to Council for a three (3) storey mixed use development including basement car parking, ground level commercial units, shop top housing and 22 lot strata subdivision (DA22/0079). This application is currently awaiting additional and amended information as requested by Council (**Figures 10** and **11**).

Similarly, a development application is active for No 9 Grand Parade to the north-east of the site on the northern side of Grand Parade (DA22/0108) for a shop top housing development comprising 8 commercial tenancies, 16 residential units, basement parking and strata subdivision (**Figure 12**). Dwelling houses exist along these streets to the east of the site (**Figure 13**).

Figure 10: The adjoining site to the east of the site

Figure 11: Proposed development at No 10 Grand Parade (*Source: Council's DA Tracker*)

Figure 12: Proposed Development - No 9 Grand Parade *(Source: Council's DA Tracker)*

Figure 13: Development to the east of the site along Habitat Drive

1.3 Site constraints

The subject site is identified as being subject to the following mapped constraints:

- Acid Sulfate Soils - The site is mapped as Class 4 Acid Sulfate Soils. An Acid Sulfate Soil Assessment has been prepared by *Pacific Geotech*.

- Bushfire Prone Land - The site is no longer mapped as being within Vegetation Category 1 and Vegetation Buffer under the Bushfire Prone Land mapping.

- The site is mapped within a Coastal Environment and Coastal Use Area under the *SEPP (Resilience and Hazards) 2021*.

- The site is affected by the following restrictions on the title (DP 1264557):

  - Restriction No 7 – Easement for multipurpose electrical installation 4.2 wide
  - Restriction 9 – Roof water from structures, impermeable landscaping & hardstand areas must be discharged to an infiltration pit sized to accommodate the 3 month ARI event. Any infiltration put created shall be approved by the Certifying Authority.
  - Restriction 12 – Site classification is poorer than 'M' under AS2870.

These restrictions are considered in this assessment.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal involves a residential apartment development comprising four (4) buildings over a common basement on a recently created lot in the Casuarina Town Centre which has concept approval for a built form of up to 4 storeys. The proposal considered in this assessment is as outlined on the amended plans dated 14 August 2023. A total of 79 apartments are proposed on the site.

Specifically, the proposal involves:

- Construction of four (4) buildings over a common one level basement comprising:
  - Building A consisting of a four (4) storey building along the Grand Parade frontage of the site as well as minor frontage to Habitat Drive and Casuarina Way, with 35 apartments, comprising 31 x 2 bedroom units, 3 x 3 bedroom units and 1 x 4 bedroom unit;
  - Building B consisting of a four (4) storey building along the Habitat Drive frontage of the site with 8 apartments, comprising 2 x 2 bedroom units, 4 x 3 bedroom units and 2 x 4 bedroom units. The ground floor comprises the indoor communal open space areas with associated terrace (outdoor) and BBQ seating areas as outdoor communal open space;
  - Building C consisting of a four (4) storey building along the drainage reserve frontage of the site with 31 apartments, comprising 22 x 2 bedroom units, 8 x 3 bedroom units and 1 x 4 bedroom unit;
  - Building D consisting of 5 x three (3) bedroom units with individual basement garages with laundries on the common basement level (3 storeys); and
  - Basement level comprising 155 resident car spaces and 20 visitor spaces, three (3) waste rooms (for Buildings A, B and C), resident bicycle parking, plant rooms and services, resident storage areas and basement garages for Building D apartments with storage, laundries and separate stair access to the Building D apartments above.

  The buildings have been designed to address all three street frontages, with the ground level apartments provided with direct pedestrian entries to the street;
- Provision of a communal open space ('COS') area in the central portion of the site and the ground level of Building B comprising:-
  - External areas consisting of In-ground pool and associated seating areas, BBQ area, Bocce lawn and outdoor shower and surfboard storage area; and
  - Internal areas consisting of a lounge area, gym, wellness zone with a spa, sauna, steam room and plunge pool.

- Pedestrian entry points including paths, ramps and mailboxes along the Habitat Drive frontage and a bin storage area adjoining the basement entry;
- Vehicle access from Habitat Drive as a consolidated two-way access point;
- Landscaping along the site boundaries and throughout the COS areas with deep soil areas along the boundaries of the site;
- Earthworks comprising excavation of up to 3 metres for the proposed basement; and
- Associated stormwater including an infiltration tank beneath the basement and other servicing, including the relocation of an existing substation from the south-west corner along Habitat Drive to the south-west corner adjoining Casuarina Way

The proposal is illustrated in **Figures 14** to **18**.

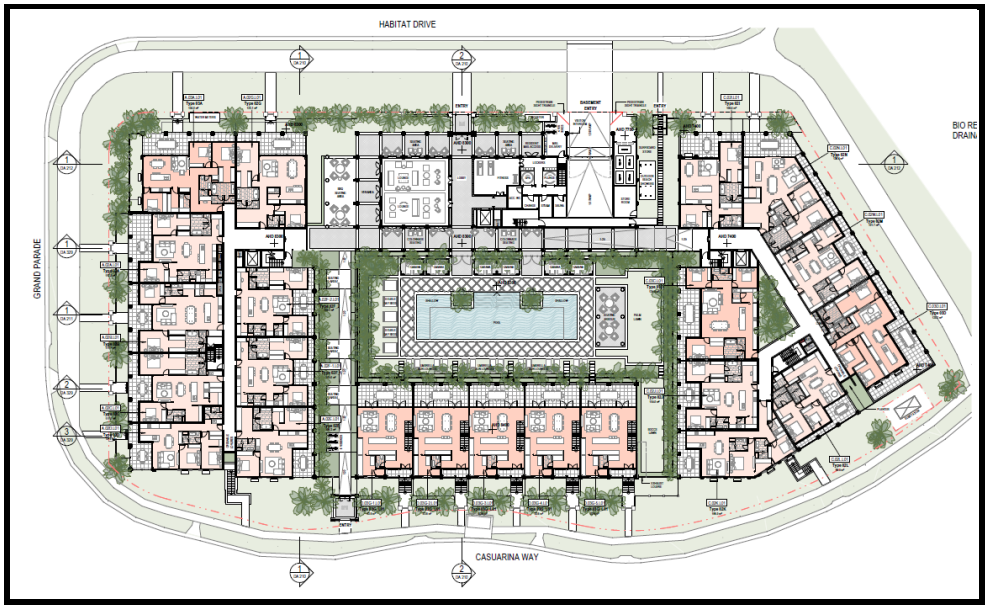

Figure 14: The Proposed Development (*Source: Conrad Gargett, Plan DA101, August 2023*)

Figure 15: Proposed Development - Grand Parade elevation *(Source: Conrad Gargett, Plan DA201, August 2023)*

Figure 16: Proposed Development - Habitat Drive elevation (*Source: Conrad Gargett, Plan DA200, August 2023)*

Figure 17: Proposed Development - Casuarina Way elevation (*Source: Conrad Gargett, Plan DA200, August 2023)*

Figure 18: Proposed Development - Grand Parade elevation *(Source: Conrad Gargett, Plan DA201, August 2023)*

The development data is outlined in **Table 1**.

Table 1: Development Data

Control	Proposal
Site area	7,354m²
GFA	10,851.1 m² (original proposal = original 12,390.9m²)
FSR	1.48:1 (max 2:1)
Cl 4.6 Requests	Not required
No of apartments	79 apartments
Apartment Mix	2 Beds – 55 (69.6%) 3 Beds - 20 (25.3%) 4 Beds - 4 (5.1%)
Max Height	(max – 4 storeys - concept plan/ 13.6m LEP)
Deep soil area	328m² (4.46%) minimum dimension of 6 metres. 496m² (3m x 3m+) (total = 824m² - 11.2%).
Communal open space	• 1,947m² (external comprising pool, seating areas, bocce lawn, BBQ area, surfboard store and outdoor showers) 26.2% of site • 269m² (internal areas comprising lounge areas, fitness room with sauna, spa and amenities) • Total – 2,216m² (30.1%)
Car Parking spaces	175 car spaces (comprising 155 resident and 20 visitor spaces) and 44 bike spaces (34 resident & 10 visitor)
Setbacks	6 metres to Casuarina Way and 3 metres to Habitat Drive and Grand Parade

2.2 Background to the Development Application

Pre-Lodgement Meeting

A pre-lodgement meeting was held prior to the lodgement of the applicant on 25 February 2022 where various issues were discussed including:

- Planning history of the site including the approved concept plan and outlining the applicable environmental planning instruments (in particular the LEP including permissibility and applicable) and relevant referral agencies.
- A height of 18.5m (5 storeys) is not supported.
- Building separation to comply with ADG, particularly in relation to privacy and overshadowing.
- Concerns raised in relation to the location of the communal open space, and in particular the useability of pool which is in continual shade.
- The public domain interface will be particularly important with respect to level changes, landscaping, access from the street, fencing, etc (given the site with has three street frontages).

- Deep soil zone to comprise areas with a minimum width of 6 metres and adequate clearance to ensure long term tree health (i.e. cannot be overhung by balconies).
- Pedestrian links through the site should facilitate direct connections to open space and pedestrian connections outside of the site.
- Waste and recycling to be considered, with 360L recycling bins the maximum serviceable by Council.
- A visual analysis including a streetscape analysis which should include a visual representation of the proposal in the streetscape demonstrating its compatibility with adjoining development is required.
- Consideration must be given to the streetscape and the ability of this new development to further enhance the public domain and provide outstanding urban design.
- A range of 1, 2, 3 bed units, as well as units capable of accommodating families and inclusion of accessible units and units which have been designed to embody universal design principles.

These matters are considered in this report, including the key issues section, where relevant.

The development application was lodged on 7 July 2022. A chronology of the development application since lodgement is outlined in **Table 2**.

Table 2: Chronology of the DA

Date	Event
7 July 2022	DA lodged
3 August 2022	Exhibition of the application
11 August 2022	DA referred to external agencies
22 December 2022	Preliminary advice sent to the applicant at the request of the applicant. (**Table 3**).
7 March 2023	Council briefing report to Panel raising the following key issues and recommending an RFI be issued: • Inadequate useable communal open space • Deep soil zones non-compliant with ADG and TDCP controls • Solid fences and walls at the property boundary up to 1.9m resulting in poor public domain interface • Non-compliant with cross ventilation controls in the ADG • Bulk and form of proposal
15 March 2023	Panel briefing, with the following key issues discussed: • Streetscape, setbacks and height • Building design and façade compatibility • Consistency with concept approval • Consistency with ADG particularly in relation to COS, DSZ and building separation, public domain interface (solid walls), building façade (repetitive arches), naturally cross ventilation, waste management • Other matters – direct street access for all ground floor units, mailboxes to street and accessibility, visitor access,

	lift access, unit design, shadow diagrams, waste storage, street presentation, provision for electric vehicles. • RFI to be sent.
30 March 2023	RFI from Council to applicant – refer to **Table 3**.
2 May 2023	Meeting between Council and applicant on RFI matters
June/July	Discussions between Council and applicant on RFI matters
25 August 2023	Amended plans lodged

2.3 Request for Information

The applicant was requested to provide additional and amended information on 30 March 2023. The matters required to be addressed are outlined in **Table 3**.

The main changes to the proposal in the amended plans included the following:

- Increased outdoor communal open space and more variety of spaces;
- Increased deep soil zone;
- Removal of habitable room windows from the side elevation of Building B to achieve internal building separation;
- Reduction in GFA of 1,539.8m²;
- Reduction in apartments from 91 to 79 (including 11 apartments less in Building B and 1 apartment less in Building D);
- Removal of 1800mm high rendered fence and replacement with an open/permeable style fencing to the public domain;
- Enhanced individual entries from Grand Parade for Building A; and
- Changes to circulation corridors for Buildings A, B and C to open lobby areas.

Table 3: RFI matters

MATTER	ORIGINAL PLANS	AMENDED PLANS	RESOLVED
Communal Open Space ('COS')	Provided 1,685m² (22.9%) comprising pool area, however, included common circulation areas and inaccessible landscape areas which were not usable COS, limited to pool area and did not allow for a range of differing uses. Large proportion was internal spaces (gym, lounge) to supplement external COS only.	Revised COS layout provided which increases usable external areas, supplemented by indoor areas and achieves the ADG design criteria. Further discussed in the key issues section of this report.	Yes
Deep Soil Zones (DSZ) & Landscaping	Concerns with the proposed DSZ included no area with minimum 6m width with the majority comprising small, separate areas of planting surrounding edges of proposed basement with min dimension of 1m and within elevated planters which cannot support tree growth.	The DSZ now provided with a minimum dimension of 6m = 328m² (4.46%). If areas on the site with a minimum dimension of 3m x 3m+ is included, a total of 496m² is provided (total = 824m² - 11.2%).	**No**

	DSZ areas along front setback areas too narrow (1m wide), to support tree growth and larger plants, particularly along Grand Pde and Habitat Drive. The basement level occupies a substantial area of site, with minimal room for DSZs. Access to podium landscaped areas unclear.	Further discussed in the key issues section of this report.	
Building Separation	There is inadequate building separation between habitable room windows, particularly between Buildings A and B and Buildings B to C. The over reliance on external screens to protect visual privacy, is not supported.	There were no changes to building separation, only to windows which directly face each other.	**No**
Development Density	• Concept approval provided indicative density of 72 units with total GFA of 9,000m². • The proposal involves 91 units with total GFA of 12,390.9m². • The inconsistency and non-compliances with COS, landscaping, DSZ and building separation indicate an over development of the site.	The GFA of the proposal has been reduced in the amended plans. The proposal is consistent with the maximum permissible GFA under the TLEP 2014. It is also noted that while the unit numbers have been reduced, the proposed units are significantly larger than the minimum size required.	Yes
Public Domain Interface	A number of concerns: • Several apartments do not have entries from the street • Street presentation to Grand Pde should be more activated. • Front fence/wall and solid balustrades approx. 1.9m presents as solid interface with public domain. • Mail boxes in basement.	There have been significant improvements made to the interface with the public domain including more direct street entries to ground level units and the removal of the high masonry wall around the site. However, there are concerns with the height of Building D above the street with the high masonry walls along the stairs.	**No**
Street Setbacks	The front setback is contrary to Section B5.2.2(2) of TDCP 2008: - Bldgs. A, D & C (Casuarina Pde) encroach into 6m setback, - Bldg A balcony edges along Grand Pde extend beyond 3m setback line to within 1m of boundary - proposed setback to Habitat Drive exacerbated by high masonry walls	The Grand Parade and Habitat Drive setbacks now comply with the 3m setback for secondary frontages. The high masonry walls have also been removed. There are minor encroachments into the front 6 metre setback to Casuarina Pde. This issue is further discussed in the DCP assessment.	Yes
Building Design	Significant concerns were raised with the design aesthetic of the proposal with the faux heritage design not supported.	No significant changes were made to the overall design aesthetic of the proposed building forms.	**No**

Natural Ventilation	Concerns with natural ventilation as only 32 units (37.6%) are cross ventilated and the large number of apartments which are considered to not be ventilated (indented windows, studies without windows, habitable rooms.	While there have been some improvement made to the units of concern, there are still concern with a high number of units having regard to natural ventilation, which are outlined in the ADG assessment.	**No**
Car Parking and Basement Design	• Car spaces not allocated to apartments (tandem spaces). • No accessible spaces • No electric vehicle charging • Basement ventilation unclear. • Pedestrian access to lifts in NW corner of basement long and difficult. • Height of basement - >1m high on southern and western elevation (Buildings A & C). • Visitor access details required. • Compliant sight lines required for carpark exit (noting pergola over carpark entrance.	These issues have been resolved as outlined in the key issues section of this report.	Yes
Waste Management	• Bin sizes and waste generation rates - inconsistent • Bin collection to be on site. • Construction waste plan not provided. • Ground level bin store shows room for only 4 x 2000L bins. • Location/design of bin rooms unsatisfactory. • Garbage chute for Building C not directed into bin room. • Bulk waste store not provided.	The proposed waste management collection arrangements and the lack of a bulky waste area are not supported This is further discussed in the DCP assessment and key issues of this report.	**No**
Apartment Design/layout	There were various concerns with the proposed apartment design and layout including poor amenity for corridors and units, several awkward shaped rooms and bedrooms to avoid direct access from living areas, room depths, accessibility (Building D) and unclear as to solar access requirements.	There have been several improvements made to the proposed apartment layouts however there are still several significant concerns with some of the unit layouts. Further discussed in the key issues section of this report.	**No**
Plans and Information	• The shadow plan appears to understate potential overshadowing impact at 3pm to eastern properties (5, 7 & 9 Habitat Drive) and potential overshadowing impacts across COS from surrounding buildings. • Car park exhausts to be shown. • A survey plan • FFL ground floor incorrect. • No cross section for Bldg C.	This information has been provided.	Yes

	• No window schedule or side elevations of Building B. • Strata subdivision would not be supported with parking. • Confirmation if screens operable.		
Noise assessment report	An amended Noise report is required to be amended to address rooftop air conditioning, further consideration of waste collection, confirm acoustic impacts from COS areas and confirm whether offsite commercial rooftop plant and equipment impacts have been considered in the assessment.	This has been provided.	Yes
Lighting	Demonstrate development will meet the requirements of *AS4282 – Control of the Obtrusive Effects of Outdoor Lighting* and assess the impact of headlight glare into habitable rooms of sensitive receivers from the use of the proposed driveway.	This has been provided and Council's Environmental Health Officer raises no objections subject to recommended consent conditions.	Yes
Ground water and dewatering	Where dewatering is still being considered, this is to be addressed prior to determination by preparing a dewatering management plan prepared by a suitably qualified environmental consultant. Confirmation that the basement shall be fully tanked and will not require ongoing dewatering.	This has been confirmed as not required.	Yes
Stormwater management	Geotechnical advice is to be provided advising whether the infiltration tank below the basement car park can function as designed with the high ground water levels in the area.	This has been provided.	Yes
Water and Wastewater infrastructure	Further information required to confirm compliance with TSC Development Design Specification D11, D12 & D15.	This has been provided.	Yes
Construction environmental management plan	A Construction Environmental Management Plan (CEMP) shall be prepared to address potential impacts on amenity of surrounding properties during construction.	This can be provided.	Yes
Essential Energy Referrals	Further information request from Essential Energy	These issues have not been resolved following further comments from Essential Energy.	**No**
Submissions	Address submissions	The submissions are addressed in this report.	Yes

2.4 Site History

Consent History

The site forms part of the Casuarina Town Centre, which was granted a Major Project approval under the former Part 3A (Major Projects) provisions of the EP&A Act by the then Minister on 20 September 2009. This approval, MP 06_0258, was for a concept plan and a concurrent Stage 1 project application.

The Casuarina town centre is part of the Casuarina Beach master planned community which has been constructed across varying stages since 1999 in accordance with the approved Kings Beach Development Plan. This Development Plan was prepared for the Casuarina Beach locality and granted consent by the NSW Land and Environment Court on 16 December 1998 (S96/135).

The concept plan (as modified) comprises the following:

- Subdivision of land into 172 lots including low and medium density residential, retail, commercial, mixed use, open space and drainage lots. The construction of dwellings on lots less than 450m² is permitted.
- Construction of a retail centre comprising a supermarket, restaurants and shops;
- Construction of associated road network and car parking;
- Construction of all necessary services; and
- Landscaping works and open space.

The concurrent Stage 1 project application approved the following:

- Bulk earthworks and vegetation clearing
- Subdivision of land into 172 lots comprising:
  - 155 low density residential lots;
  - medium density residential lots;
  - 6 mixed use lots;
  - commercial lots;
  - 1 retail lot;
  - open space and drainage lots;
- Construction of the retail centre in two stages with a total combined floor space of 5,274m² comprising a maximum of 5,029m² of retail floor space.
- Construction of roads and car parking;
- Closure of Dianella Drive at its intersection with Tweed Coast Road;
- Realignment of the foreshore walkway/cycleway;
- Landscaping;
- Signage for the retail centre; and
- Provision of associated services i.e. water, sewerage, stormwater drainage, electricity supply and telecommunications.

The subdivision of land under the Project Approval has now been carried out, which has resulted in the creation of the subject site.

The Major Project approval has been modified on several occasions, with the most relevant modification to the current application being MOD 10 which was approved on 7 November 2018 by the Independent Planning Commission. MOD 10 approved the replacement of a hotel and medium density allotments with low density residential development, increased the maximum building height for 3 buildings only from 3 to 4 storeys (including this site), made

changes to roads, open space, cycleway layout, staging, and changes to stormwater works and other infrastructure.

The concept plan approved by MOD 10 is illustrated in **Figures 19** to **21**.

Figure 19: Approved Density Plan - Modification 10 (*Source: Major Projects website)*

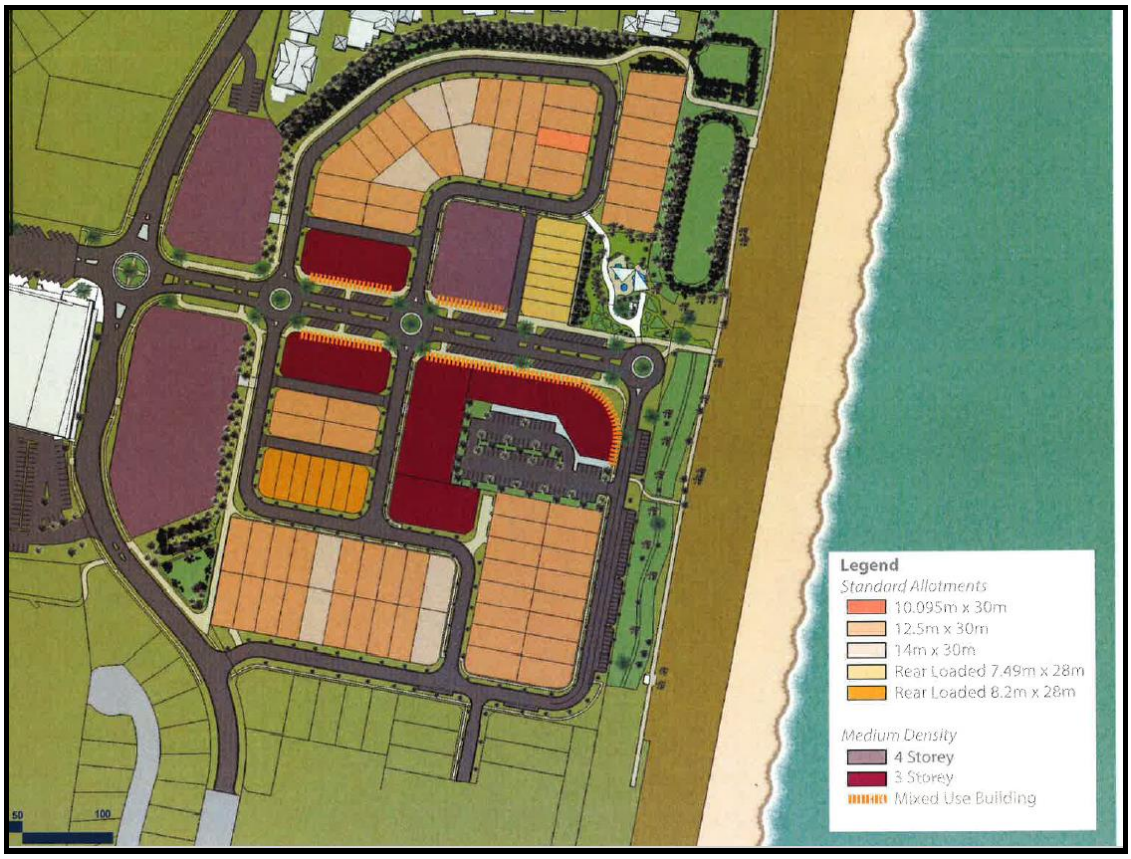

Figure 20: Approved Built Form Plan - Modification 10 ***(Source: Major Projects website)***

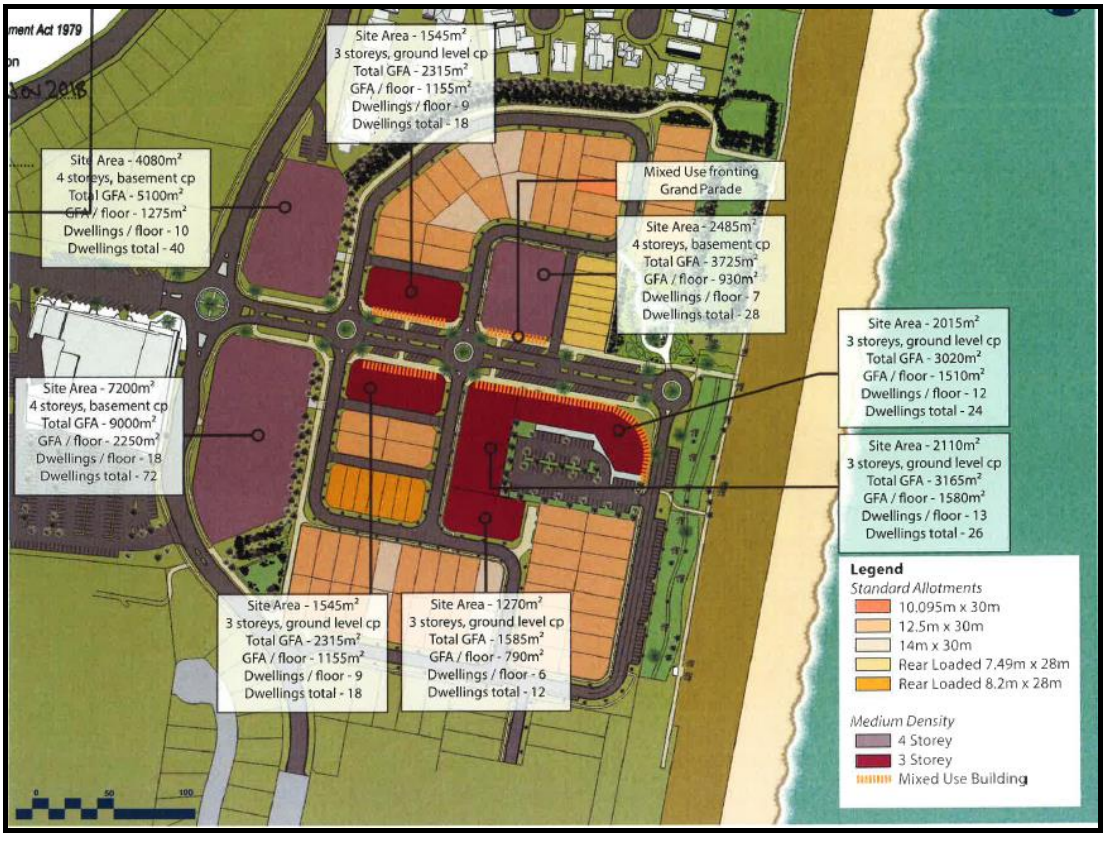

Figure 21: Approved Yield Estimate Plan - Modification 10 ***(Source: Major Projects website)***

The conditions of MOD 10 which are of particular relevance for the proposed development include the following:

B8 Future Development of Medium Density Lots

The future built forms shown in the Casuarina Beach Town Centre Vision and Landscape Document approved as part of Modification 10 are only approved to the extent that they indicate the location of where three and four storey building envelopes can be developed. The GFA of the proposed building envelopes indicated on the plans is not approved as the buildings will be subject to further design refinements as part of the assessment of future development applications.

C1 Residential Flat Buildings

All future applications involving the development of a residential flat building (within the definition of State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings) is to include a Design Verification Statement from a qualified designer, verifying that the plans and specifications achieve the design quality of the development, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings.

Future applications are to demonstrate the buildings have been designed in accordance with the relevant building siting, configuration , and amenity design criteria and guidance of the Apartment Design Guide and the built form controls of Tweed LEP 2014 (excluding height and number of storeys provisions where Condition B8 and C2 apply).

C2 Overshadowing

Future applications for all three or four storey buildings are to include an assessment of the potential for overshadowing of both adjoining buildings and public open space areas (in particular, areas of public open space).

In summary, the following applies to the current proposal arising from the concept plan approval:

- The site can provide for development up to four (4) storeys
- There is no approved GFA for the site
- A Design Verification Statement from a qualified designer is required as outlined in SEPP 65
- Demonstrate that the buildings have been designed in accordance with the building siting, configuration, and amenity design criteria and guidance of ADG
- Height and number of storeys controls of Tweed LEP 2014 do not apply.
- Assessment of potential for overshadowing of both adjoining buildings and public open space areas required.

The statutory implications of the approved concept and project approval for the site are considered below in relation to the relevant development standards applying to the site.

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

(a) the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations
(i) any environmental planning instrument, and
(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
(iii) any development control plan, and
(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and
(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),
that apply to the land to which the development application relates,
(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
(c) the suitability of the site for the development,
(d) any submissions made in accordance with this Act or the regulations,
(e) the public interest.

It is noted that the proposal is not integrated Development pursuant to Section 4.46 of the EP&A Act or Designated Development pursuant to Section 4.10 of the EP&A Act.

Concept Approval

The concept and project approval (MP 06_0258) of the Casuarina Town Centre is a transitional Part 3A project under Clause 2 of Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* ('STOP Regulation'). Therefore, the concept and project approval overrides certain aspects of the TLEP 2014. Clause 3B of Schedule 2 of the STOP Regulation, contains provisions with respect to the approval of concept plans, which remain valid for the current application and include (emphasis added):

(1) This clause applies to development (other than an approved project) for which a concept plan has been approved under Part 3A, before or after the repeal of Part 3A, and so applies whether or not the project or any stage of the project is or was a transitional Part 3A project.
(2)** After the repeal of Part 3A, the following provisions apply to any such development (whether or not a determination was made under section 75P(1)(b) when the concept **plan was approved)—
(a) if Part 4 applies to the carrying out of the development, the development is taken to be development that may be carried out with development consent under Part 4 (despite anything to the contrary in an environmental planning instrument),

(b) if Part 5 applies to the carrying out of the development, the development is taken to be development that may be carried out without development consent under Part 4 (despite anything to the contrary in an environmental planning instrument),
(c) any development standard that is within the terms of the approval of the concept plan has effect,
(d) a consent authority must not grant consent under Part 4 for the development unless it is satisfied that the development is generally consistent with the terms of the approval of the concept plan,
(e) a consent authority may grant consent under Part 4 for the development without complying with any requirement under any environmental planning instrument relating to a master plan,
(f) the provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the concept plan,
(g) this clause applies instead of section 75P(2), but any direction, order or determination made under section 75P(2) in connection with the concept plan continues to have effect.

Accordingly, pursuant to Clause 3B(2)(a) and (f) of the STOP Regulation, the following applies:-

- Permissibility of the proposal - the proposed residential flat building in the E1 zone is permissible; and

- Development standards - the development standards of the TLEP 2014 are set aside to the extent that they are inconsistent with the concept plan. In this way, the relevant height development standard for the site is set by the concept approval and is four (4) storeys, notwithstanding under the TLEP 2014 the maximum height is 13.6 metres.

These matters are further discussed below.

3.1 Section 4.15(1)(a) - Environmental Planning Instruments etc

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Biodiversity & Conservation) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *Tweed Local Environmental Plan 2014*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 4** and considered in more detail below (bold indicates preconditions to be satisfied).

Table 4: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and Regional Development • Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 2 of Schedule 6 as it comprises that has a capital investment value of more than $30 million.	Yes
State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 4: Koala Habitat Protection 2021 • **Section 4.8(2)** states that the Council's determination of the development application must be consistent with the approved koala plan of management that applies to the land. The proposal is consistent with this Clause.	Yes
SEPP (Resilience & Hazards)	Chapter 2: Coastal Management • **Section 2.10(1) & (2)** - Development on land within the coastal environment area • **Section 2.11(1)** - Development on land within the coastal use area • **Section 2.12** - Development in coastal zone generally — development not to increase risk of coastal hazards. • **Section 2.13** - Development in coastal zone generally - coastal management programs to be considered. • Section 2.14 - Other development controls not affected. • Section 2.15 - Hierarchy of development controls if overlapping Chapter 4: Remediation of Land • **Section 4.6 -** Contamination and remediation have been considered in the Contamination Report and the proposal is satisfactory subject to conditions.	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2: Infrastructure • Section 2.48(2) (Determination of development applications—other development) – electricity transmission - the proposal is satisfactory subject to conditions.	**No** (EE)
State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development	• Clause 28(2) – Matters for consideration – Design quality principles and the ADG • Clause 30(1) – matters which cannot be used to refuse • **Clause 30(2)** - Consent must not be granted if, in the opinion of the consent authority, the development does not demonstrate that adequate regard has been given to the design quality principles, and the objectives specified in the Apartment Design Guide for the relevant design criteria.	**No** Yes **No**

BASIX SEPP	No compliance issues identified subject to imposition of conditions on any consent granted.	Yes
Proposed Instruments	No compliance issues identified.	Yes
Tweed LEP 2014	• Clause 2.2 & 2.3 – Zoning, permissibility, zone objectives • Clause 4.4(1) – Max FSR • Clause 5.10 – Heritage • Clause 5.21 – Flood Planning • Clause 7.1 – Acid sulphate soils • Clause 7.2 – Earthworks • Clause 7.6 – Stormwater Management • Clause 7.8 – Airspace Operations • Clause 7.10 – Essential Services	Yes Yes Yes N/A Yes Yes Yes Yes Yes
Tweed DCP	• Section A1: Residential and tourist development – Part C (Shop top & Residential Flat Buildings) • Section A2: Site Access and Parking • Section A15: Waste Minimisation and Management • Section B5: Casuarina Beach • Section B9: Tweed Coast Strategy	**No** **No** **No** Yes Yes

Consideration of the relevant SEPPs is outlined below.

State Environmental Planning Policy (Planning Systems) 2021

The proposal is regionally significant development pursuant to Section 2.19(1) (Chapter 2: State and Regional Development) as it satisfies the criteria in Clause 2 of Schedule 6 of the Planning Systems SEPP as the proposal is development that has a capital investment value of more than $30 million. Accordingly, the Panel is the consent authority for the application. The proposal is consistent with this Policy.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021 ('Biodiversity & Conservation SEPP') provides controls for various environmental issues, with Chapter 4 the only relevant chapter for the current application.

It is noted that Chapter 2 does not apply to the proposal as the site is not located in the non-rural areas of the state pursuant to Section 2.3(1)(a) of the Policy. Furthermore, pursuant to Section 2.7 of Chapter 2, a permit or approval to clear vegetation is not required under this Chapter if it is clearing of a kind that is authorised under the *Local Land Services Act 2013*, section 60O or Part 5B. Chapter 3 Koala habitat protection 2020 does not apply to the site as it is not located within the RU1, RU2 or RU3 zones.

Chapter 4 Koala habitat protection 2021 applies to the Tweed local government area and which contains the North Coast Koala Management area pursuant to Section 4.4(1) and Schedule 2. Pursuant to Section 4.8(1), the *Tweed Coast Comprehensive Koala Plan of Management* is an approved koala plan of management and accordingly, Section 4.8(2) is relevant to the current development application. The site is within the Southern Tweed Coast Koala Management Area ('KMA').

Section 4.8(2) states that the council's determination of the development application must be consistent with the approved koala plan of management that applies to the land. In this regard,

the subject site does not contain any trees and therefore there are no preferred koala food trees located on the site and the site is not located in a Koala activity precinct. Therefore it is considered that there is no koala habitat on the site and the proposal is consistent with this Policy.

State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy (Resilience and Hazards) 2021 ('Resilience & Hazards SEPP') commenced on 1 March 2022 with Chapter 2: Coastal Management and Chapter 4 Remediation of Land relevant to the current application.

Chapter 2: Coastal Management

Chapter 2 aims to promote an integrated and coordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the *Coastal Management Act 2016*, including the management objectives for each coastal management area. The site is located within the Coastal Environment Area and Coastal Use area, however, is not indicated on the Coastal Wetlands and Littoral rainforest Map (or proximity areas) pursuant to Section 2.4. The relevant provisions of Part 2.2 of Chapter 2 are considered below.

(i) Section 2.10 - Development on land within the coastal environment area

Pursuant to Section 2.10(1), development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:

(a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment* - The proposal does not require the removal of any vegetation or require any significant changes to the natural landform (outside of the basement footprint) and accordingly it is considered that there is unlikely to be any adverse impacts on the natural environment.

(b) *coastal environmental values and natural coastal processes* - The proposal will not result in any adverse impacts on the coastal environment or processes given the proposed works have been designed within the urban footprint of residentially zoned land and will not impinge or obstruct any coastal areas.

(c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1* - The proposal will not result in any impacts on the marine environment given the proposed construction management controls which will be undertaken and appropriate stormwater management proposed for the site. There are no coastal lakes in the vicinity of the site.

(d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms* - There will be no impacts on the marine or native vegetation as there is none of this vegetation proposed to be removed. There are no headlands in the vicinity of the site which will be affected and there are no rock platforms which will be affected by the proposal.

(e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability* - There is currently no public access to the foreshore and there is no future opportunities given the private ownership of the site and surrounding sites.

(f) *Aboriginal cultural heritage, practices and places* - There is no known Aboriginal cultural heritage on the site.

(g) *the use of the surf zone* - No impacts on the surf zone arising from the proposal.

Further, pursuant to Section 2.10(2), consent must not be granted to development on land to which this section applies unless the consent authority is satisfied that—

(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

The proposal will result in minimal environmental impact given the proposed development has been sited to reduce impacts on the natural environment. The proposed construction management controls to be implemented during works as outlined on the accompanying plans will ensure minimal impacts during construction. Therefore, it is considered that the proposal will avoid an adverse impact on the coastal environmental area.

(ii) Section 2.11 - Development on land within the coastal use area

Pursuant to Section 2.11(1(a), development consent must not be granted to development on land that is within the coastal use area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—

(i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability* - There is currently no public access to or through the site and there is no potential for future public access on the site. The proposal does not restrict other established public access to the foreshore in the area or the existing public pathway adjoining the site to the south.

(ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores* - There will no overshadowing, wind funnelling or loss of views from public places to the foreshore arising from the proposal given it is sufficiently setback from the foreshore.

(iii) *the visual amenity and scenic qualities of the coast, including coastal headlands* - There will be no adverse impacts to the visual amenity of the coast arising from the proposal as the works are consistent with other developments in the area and is consistent with the concept approval for the locality.

(iv) *Aboriginal cultural heritage, practices and places* – There is no known Aboriginal cultural heritage on the site.

(v) *cultural and built environment heritage* - There are no local heritage items on the site, adjoining the site or in the vicinity of the site.

Section 2.11(1)(b) requires that development consent must not be granted to development on land that is within the coastal use area unless the consent authority is satisfied that—

(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or

(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact

The proposal will result in minimal impacts to public areas and heritage areas as outlined above. The proposal will not result in overshadowing or adverse visual impacts to public places and will not obstruct public access to the foreshore since there is currently no public access to the foreshore from the subject site. Therefore, the proposal is considered to be development that has been designed, sited and will be managed to avoid adverse impacts as referred to in Section 2.11(1)(a) of the Policy.

Section 2.11(1)(c) also requires that development consent must not be granted to development on land that is within the coastal use area unless the consent authority has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development. In this regard, it is considered that the bulk, scale and size of the proposal is generally compatible with existing development when viewed from the coast.

(vi) Section 2.12 - Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land. In this case, it is considered that the proposal will not increase the risk of coastal hazards on the land as it involves a new residential flat building in an urban area.

(vii) Section 2.13 – Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land. The proposal is considered to be generally consistent with Council's coastal management program given the site is not located adjoining the coast and there are adequate stormwater management arrangements proposed.

(viii) Section 2.14 – Other development controls not affected

This Section states that, subject to section 2.5, for the avoidance of doubt, nothing in this Part, permits the carrying out of development that is prohibited development under another environmental planning instrument, or permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent. In this case, the proposal requires consent under the TLEP 2014, which is sought in this application.

(ix) Section 2.15 – Hierarchy of development controls if overlapping

This section outlines the hierarchy of coastal management areas in the event that the site is located across multiple areas and the controls are inconsistent. In this case, the site is located within both the coastal environment area and the coastal use area. However, the controls are consistent and the proposal is acceptable having regard to these controls.

The proposal is consistent with Chapter 2 of the Resilience & Hazards SEPP.

Chapter 4: Remediation of Land

Section 4.6 of Resilience & Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The SEE states the following in relation to potential land contamination:

> *With respect to the above, land contamination was investigated as part of the existing approvals over the site for the Casuarina Town Centre subdivision. While a small part of the Casuarina Town Centre subdivision was identified as containing previous sand mining activities that required remediation via remediation action plan, the subject lot was not identified as being subject to contamination.*

Council's Environmental Health Officer has considered the proposal and stated that the site is identified within the Heavy Mineral Sands Mining Paths due to historic sand mining. A Site Audit Statement 0103-1803-A (Area A) prepared by Marc Salmon of Easterly Point Environmental dated 29 December 2020 applies to this site certifying the site is suitable for:

- Residential with accessible soil, including garden (minimal home-grown produce contributing less than 10% fruit and vegetable intake), excluding poultry;
- Day care centre, preschool, primary school;
- Residential with minimal opportunity for soil access, including units;
- Secondary school;
- Park, recreational open space, playing field; and
- Commercial/industrial.

Contamination is not considered a constraint for the proposed development and has been satisfactorily addressed.

State Environmental Planning Policy (Transport and Infrastructure) 2021

State Environmental Planning Policy (Transport & Infrastructure) 2021 ('Transport & Infrastructure SEPP') commenced on 1 March 2022 with Chapter 2 of the SEPP relevant to the application. The relevant provisions are considered below.

> *Section 2.48: Determination of development applications—other development* –
> *(1) This section applies to a development application involving development carried out:*
>
> *(a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
> *(b) development carried out—*
> *(i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
> *(ii) immediately adjacent to an electricity substation, or*
> *(iii) within 5m of an exposed overhead electricity power line,*

In this case, the site achieves this criteria given there is underground electrical infrastructure located along the northern, southern and western frontages of the site and there is a substation and an associated electricity easement on the site benefiting Essential Energy in the southeast corner of the site (**Figure 22**).

Therefore this section requires consideration (Section 2.48(1)(a) and (b)(i) and (ii)). The application also involves the proposed relocation of the existing pad mount substation from its current location adjacent to Habitat Drive to the southern boundary of the site along Casuarina Way within the front landscaped area.

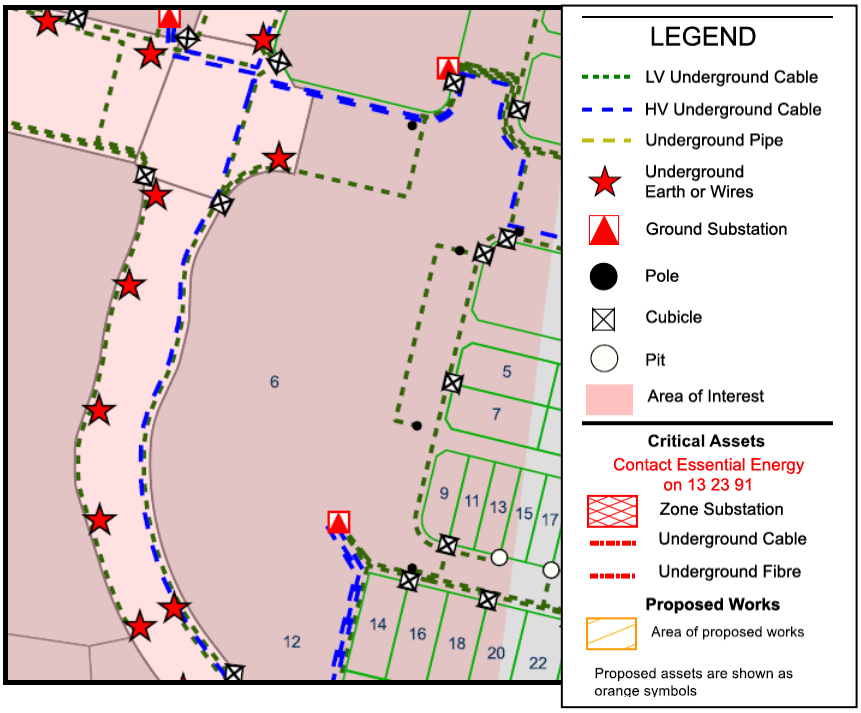

Figure 22: Electrical Infrastructure *(Source: Engineering Report)*

Pursuant to Section 2.48(2), before determining a development application, the consent authority must give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and take into consideration any response. Council referred the amended plans to Essential Energy, with safety concerns being raised by Essential given the proximity to their electrical infrastructure. This is considered further in the key issues section of this report.

Section 2.119 – Development with frontage to classified road

This Section applies to land which has a frontage to a classified road. The adjoining roads to the site are collector or local roads managed by the Council and are not classified roads. Accordingly, this section does not apply to this development application.

Section 2.120 - Impact of road noise or vibration on non-road development

This Section applies to residential accommodation (among other land uses) that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW) and that the consent authority considers is likely to be adversely affected by road noise or vibration. The site does not adjoin any roads which have this amount of traffic and is not located on the maps to this Policy. Accordingly, this section does not apply to this development application.

Section 2.122 - Traffic-generating development

This section requires consideration of certain matters relating to development which is

deemed to be traffic-generating. Before determining a development application to which Section applies, the consent authority must give written notice to Transport for NSW and take into consideration any submission received, the accessibility of the site and any potential traffic safety, road congestion or parking implications of the development.

This section applies to development specified in Column 1 of the Table to Schedule 3 of this SEPP that involves new premises or an enlargement or extension of existing premises of the relevant size or capacity. The Table in Schedule 3 lists different criteria for the development types in two columns, with Column 2 applying where the site has access to any road, while Column 3 applies to a site with access to (or within 90m of) a classified road.

In this case, the proposal involves car parking exceeding 50 spaces (175 spaces proposed) and residential accommodation providing 75 or more dwellings (79 dwellings proposed) as listed in Column 2, however, the site does not have access to a classified road and is not within 90 metres of a classified road. Accordingly, this Section does not apply.

The proposal is considered to be consistent with the Transport & Infrastructure SEPP.

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development ('SEPP 65') aims to improve the design quality of residential apartment development and applies to the proposal as it comprises a minimum of three (3) storeys and more than four (4) dwellings.

Clause 6A of SEPP 65 states that there are certain matters in which any controls in a DCP have no effect, including visual privacy, solar and daylight access, common circulation and spaces, apartment size and layout, ceiling heights, private open space and balconies, natural ventilation and storage. This is noted in the DCP assessment below.

Pursuant to Clause 28(2) of SEPP 65, the consent authority is to take into consideration in determining a development application:

- the advice (if any) obtained from the design review panel, and
- the design quality of the development when evaluated in accordance with the design quality principles, and
- the Apartment Design Guide.

In this case, while there is no design review panel for Tweed Shire Council, the urban design issues were considered by Council's Specialist Planner (Urban Design) and are considered in the key issues section and consultation sections of this report. The matters required to be considered in relation to the design quality principles and the Apartment Design Guide are considered below.

Clause 30(1) of SEPP 65 states that a development application cannot be refused if it complies with the prescribed criteria for these matters as specified in the Apartment Design Guide for reasons relating to the following:

- Car parking – the proposal complies with the car parking requirements of the ADG;
- Minimum internal area for apartments – the proposal complies with the minimum internal apartment area requirements of the ADG; and
- Ceiling heights - the proposal complies with the minimum ceiling height requirements of the ADG;

The proposal generally satisfies the requirements for car parking, minimum internal area for apartments and ceiling heights, as outlined in the ADG assessment in **Attachment B**.

Pursuant to Clause 30(2) consent must not be granted if, in the opinion of the consent authority, the development does not demonstrate that adequate regard has been given to:

(a) the design quality principles, and
(b) the objectives specified in the Apartment Design Guide for the relevant design criteria.

As outlined below and in the key issues section of this report, the proposal has **not** adequately addressed these requirements and therefore consent cannot be granted as this is a jurisdictional precondition to the grant of consent which has not been satisfied.

Pursuant to Section 29(1) of the Regulations, a design verification is required to be submitted which explains how the development addresses the design quality principles, and the objectives in Parts 3 and 4 of the Apartment Design Guide. This Design Statement has been provided with the amended plans dated August 2023 (Revision D) prepared by Conrad Gargett.

Design Quality Principles

The design quality principles are contained in Schedule 1 of SEPP 65 and are considered in **Table 5**. The proposal is considered to be inconsistent with Principles 1 (context and neighbourhood character), 2 (built form and scale), 4 (sustainability), 5 (landscape), 6 (amenity) and 9 (aesthetics), which are considered further in the key issues section of this report.

Table 5: SEPP 65 Design Quality Principles

DESIGN QUALITY PRINCIPLE	REQUIREMENT	PROPOSAL	COMPLY
Principle 1: Context and neighbourhood character	Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.	The proposed development does not respond to its context given the inconsistencies with the building design in relation to the prevailing character of the area and therefore does not respond to the built features of the area. The proposed facades of the building are unsatisfactory and exacerbate the bulk and scale of the proposed building forms.	**No**
Principle 2: Built form and scale	Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.	The proposed built form is not appropriate for the site as the faux heritage aesthetic is out of	**No**

	Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.	character with the area and the heritage detailing components adds bulk and scale to the development. There is also a lack of variety in the materials, with the rendered concrete a dominating presence on the site for a coastal setting. The proposed built form does not contribute to the character of the streetscape as the design is incompatible with existing development in the area and the building bulk and massing are not acceptable in the context of the site.	
Principle 3: Density	Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.	The proposed density is considered satisfactory in that it complies with the controls.	Yes
Principle 4: Sustainability	Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.	The proposal does not provide for adequate sustainability given the ineffective natural cross ventilation provided to a large number of proposed apartments, which will increase the reliance on heating and cooling systems. There is also a lack of skylights provided in the roof and there are also no sustainability measures beyond those required under BASIX for such a large development, including solar panels.	**No**
Principle 5: Landscape	Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments	The proposal provides an inadequate amount of deep soil zone on the site	**No**

	with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks. Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.	having regard to the requirements of the ADG. The proposed landscape design is also considered to be unsatisfactory as there is an over-reliance on palm trees, there is a lack of depth in the layers to the landscaping (generally only podium planting for shrubs) and there is limited privacy between the communal and private open space areas which could be improved with improved layered landscaping.	
Principle 6: Amenity	Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.	The proposal provides for appropriate communal open space areas and the proposed apartments achieve the ADG requirements in relation to size and solar access, however, there are various concerns with the layout of some of the apartments including the lack of access to natural cross ventilation, privacy concerns from the communal open space and some acoustic concerns. A number of the proposed apartments have compromised amenity arising from the measures to satisfy the required building separation within the site, including the provision of blank walls and external fixed screening which reduces the amenity of the proposed apartments.	**No**
Principle 7: Safety	Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to	The proposal is satisfactory in relation to safety.	Yes

	maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.		
Principle 8: Housing diversity and social interaction	Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.	The housing diversity provision is considered to be satisfactory and there are several areas of communal open space provided.	Yes
Principle 9: Aesthetics	Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.	The architectural expression of the proposed development is considered to be unsatisfactory in that the proposed built form does not have good proportions or a balanced composition of elements. The proposal also does not provide a variety of materials, colours and the visual appearance of the proposal does not respond to the existing or future local context. Visual interest in the façades has not been provided by the development, with the proposed façades not contributing to the aesthetic appeal of the building or the character of the area. This proposed architectural faux heritage stylistic appearance and components accentuates the buildings overall bulk and scale and is	**No**

		incompatible with the Australian contemporary coastal aesthetic which is emerging in the area.	

The Apartment Design Guide

The *Apartment Design Guide* ('the ADG') aims to achieve better design and planning for residential apartment development, by providing benchmarks for designing and assessing these developments. The relevant controls and principles of the ADG are considered in the context of the proposal in a detailed compliance table in **Attachment B.**

There are several inconsistencies of the proposal with the ADG controls which are outlined below and considered in the key issues section of this report. These inconsistencies are not supported and include:

Part 3: Siting the Development

- ***Part 3E: Deep Soil Zones*** - The Design Criteria for deep soil zones ('DSZ') pursuant to Part 3E of the ADG requires a minimum dimension of 6 metres and a minimum of 7% of the site area, while the Design Guidance further provides that for a site greater than 1,500m², a DSZ of 15% of the site area should be provided, which would require 1,103.1m² of DSZ for the current proposal. The proposal involves a DSZ comprising 328m² with a minimum dimension of 6m, which represents 4.46% of the site, a shortfall of 186.78m² of DSZ on the site in accordance with the requirements of the design criteria and a 775.1m² shortfall in relation to the Design Guidance of the ADG.

  The proposed DSZ is considered unsatisfactory for a number of reasons including the proposal being inconsistent with Objective 3E-1 of the ADG, there is no planning justification why the minimum required DSZ cannot be achieved on this large, greenfield site and the proposed four (4) separate areas of DSZ which are not contiguous, further highlights the piecemeal approach to the planning of the deep soil areas on the site. Further reasons include the areas being too small for significant planting, the size and the scale of the proposal warrants a larger DSZ than proposed. The proposed DSZ is unsatisfactory.

- ***Part 3F: Visual Privacy –*** While the proposed development provides the required building separation within the site, this has only been achieved through the provision of blank walls and external fixed screening which reduces the amenity of the proposed apartments and are contrary to Objective 3F-2. The measures to mitigate privacy impacts compromise access to light and air and do not balance outlook and views from habitable rooms and private open space. Accordingly, the proposed building separation is considered to be unsatisfactory. The proposal is also contrary to the design guidance of Part 3F-2 in that the communal open space, common areas and access paths are not adequately separated from private open space and habitable room windows to apartments, resulting in privacy concerns.

- ***Part 3G: Pedestrian access and entries*** – The proposal is considered to be contrary to Objective 3G-2 and the design guidance in that the access, entries and pathways are not accessible given the height of proposed Building D above the street level is approximately 1.5 metres above the footpath level (bus stop). This results in a large number of stairs and retaining walls adjoining the stairs. This does not provide for the design of ground floors to minimise level changes along pathways and entries or the provision of steps which are integrated into the building design.

Part 4: Designing the building

- ***Part 4B: Natural Ventilation*** – The proposal does not satisfy the design criteria of Part 4B-3 in that only 51.8% of the proposed apartments are naturally cross ventilated, when a minimum is 60% is required. The proposal is also inconsistent with the design guidance of Part 4B-1 in that depths of some of the habitable rooms do not support natural ventilation, there are some windows which do not satisfy the area of unobstructed openings and there are some habitable rooms with no windows to an external wall (internal rooms). There are also some apartments which rely on light wells as the primary air source for habitable rooms and there are a number of apartments which rely on fixed external aluminium screens to protect visual privacy due to the inadequate building separation which will adversely impact on natural ventilation. A large, unencumbered site should provide a high proportion of naturally ventilated units to reduce reliance on heating, ventilation and air conditioning systems.

- ***Part 4D: Apartment Layout*** - The proposal does not satisfy the design criteria of Part 4D-1 in that there are a number of apartments which contain habitable rooms without a window. Arising from the lack of windows in numerous habitable rooms, apartments with a window to a void area and apartments with room depths in open plan layouts exceeding the maximum room depth of 8 metres results in the proposal being contrary to Objectives 4D-1 and 4D-2. These objectives require the layout of rooms within an apartment to be functional, well organised and provide a high standard of amenity and that the environmental performance of the apartments is maximised. The proposal does not achieve the objectives, design criteria or the design guidance for the layout of rooms.

- ***Part 4F: Common circulation Space –*** The proposal is inconsistent with the design guidance of Part 4F-1 in that there are a number of living and bedroom windows which open directly onto common circulation spaces, including communal open spaces areas and void/circulation areas.

- ***Part 4H: Acoustic Privacy*** – There are a number of proposed apartments which are unsatisfactory in relation to potential acoustic privacy concerns including unit which are proposed directly adjoining areas of communal open space and bedrooms which directly adjoins the lift core. These apartments are contrary to Objective 4H-1 which requires that noise transfer is minimised through building layout and the design guidance which requires that noise sources such as communal open spaces and circulation areas should be located at least 3 metres away from bedrooms.

- ***Part 4M: Facades*** - The proposed facades of the buildings are unsatisfactory given the faux heritage stylistic appearance which accentuates the buildings overall bulk and scale. This building design is also inconsistent with the contemporary Australian coastal aesthetic which is emerging in the area and is inconsistent with Objective 4M-1. The proposal is also contrary to the design guidance as the design solutions for the front building facades such as a composition of varied building elements, a defined base, middle and top of buildings and changes in texture, material and colour to modify the prominence of elements has not been provided. The proportion of the form accentuates a bulk and massing exacerbated by the three-storey high (fluted) arches and heavy reliance on rendered painted concrete blockwork which will require substantial ongoing maintenance.

- **Part 4N: Roof Design -** The proposed roof design adds significant bulk and scale to the development and is inconsistent with the prevailing character of the area which

generally comprises sloping, lightweight metal roofs. The proposed roof for Building D is also out of character with the area and is excessive in its scale and encroaches into the front setback to Casuarina Way. This roof also adds unnecessary bulk and height to the development. The roof material does not compliment the building in that it adds more weight to the overall building form and is not of a lightweight construction which is evident on existing development in the area.

The proposal is contrary to Objective 4N-1 which requires that roof treatments are integrated into the building design and positively respond to the street. The proposal is also inconsistent with the design guidance in that the roof design does not relate to the street and is not integrated into the building design.

Accordingly, the proposal involves numerous inconsistencies with the design quality principles of SEPP 65 as well as various non-compliances with the ADG. These matters are further considered in the key issues section of this report. The proposal is considered to be unsatisfactory having regard to the SEPP 65 and ADG matters.

Communal Open Space

The Communal Open Space ('COS') outlined in the original proposal did not provide the required 25% of the site area and included areas which were largely circulation areas, indoor areas or comprised planter boxes and other inaccessible areas. The amended plans has significantly improved the proposed COS, which now provides the following communal open space areas (**Figure 23**):

- 1,947m² (26.2% of site) external area comprising pool, seating areas, bocce lawn, BBQ area, surfboard store and outdoor showers
- 269m² (internal areas comprising lounge areas, fitness room with sauna, spa and amenities)

The total COS including internal and external areas comprises 2,216m² (30.1%) of the site.

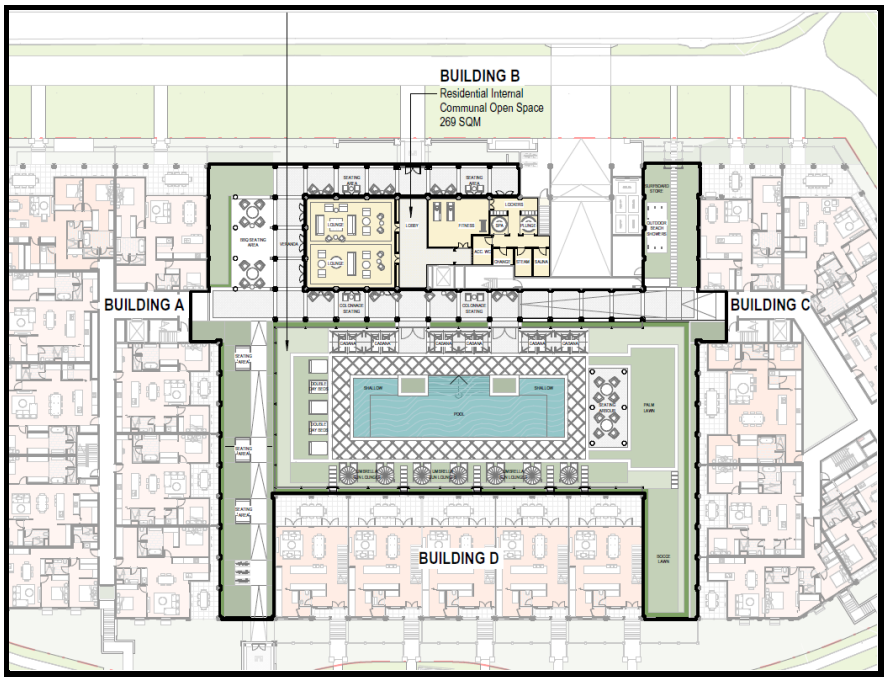

Figure 23: Proposed communal open space (*Source: Plan DA325, Conrad Gargett, August*

2023)

The COS receives the required solar access from 11am until 2pm in mid-winter, achieving compliance. The proposed COS area now provides the required amount of area as external open space which is supplemented by some indoor areas. The proposed COS is considered to be satisfactory as it allows for a variety of uses to be undertaken by residents and satisfies the numerical requirements of the ADG. The potential privacy concerns with the COS are considered above.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy – Building Sustainability Index BASIX– 2004 ('BASIX SEPP') applies to the proposal. The objectives of this Policy are to ensure that the performance of the development satisfies the requirements to achieve water and thermal comfort standards that will promote a more sustainable development.

The application is accompanied by BASIX Certificate No. 1312417M_02 dated 4 July 2022 prepared by ADP Consulting committing to environmentally sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. The proposal is consistent with the BASIX SEPP subject to the recommended conditions of consent.

Tweed Local Environmental Plan 2014

The relevant local environmental plan applying to the site is the *Tweed Local Environmental Plan 2014* ('TLEP 2014'). The aims of the LEP include to encourage a sustainable local economy and small business and to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, built environment, and cultural heritage. Further aims are to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change. The proposal is generally consistent with these aims.

Zoning and Permissibility (Part 2)

The site is located across two (2) zonings, with the northern portion of the site within the E1 Local Centre zone and the southern portion of the site within the R1 General Residential zone pursuant to Clause 2.2 of the TLEP 2014 (**Figure 24**).

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of a *residential flat building* which is defined as *a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing*. The proposed Building D is also considered to be a residential flat building as it is considered to be the same building given the common basement below.

Pursuant to the Land Use Table in Clause 2.3 of the TLEP 2014, *residential flat buildings* are permissible in the R1 zone, however, are prohibited in the E1 zone as they are included in the definition of *residential accommodation* which is prohibited in the zone (Item 4). As outlined above, the proposal is permissible as it is consistent with the concept plan approval.

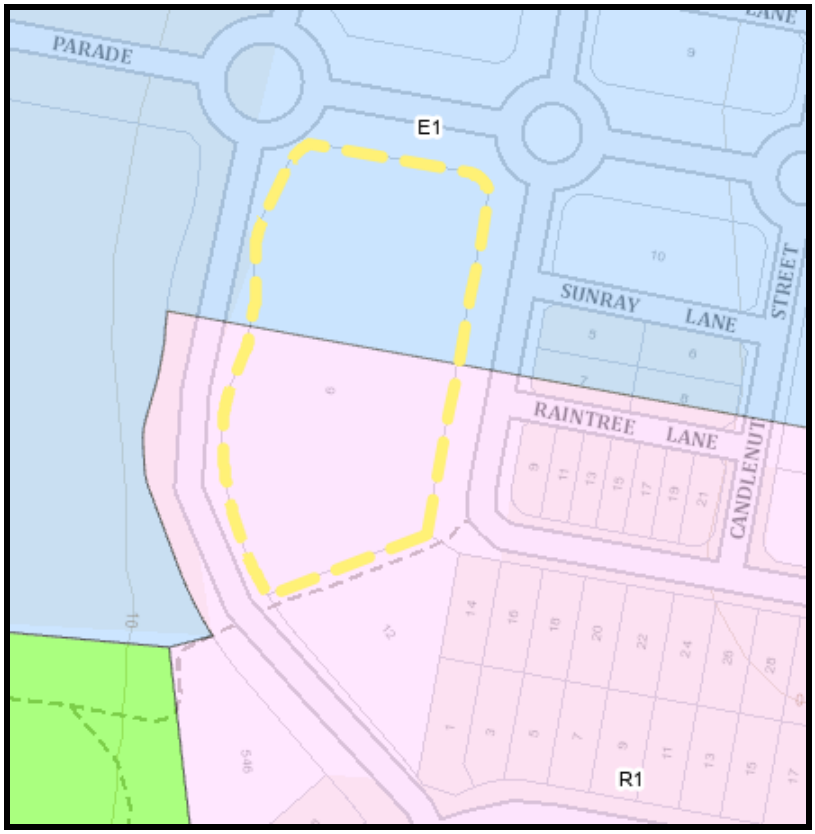

Figure 24: Zoning Map *(Source: Spatial Viewer - NSW Planning Portal)*

The zone objectives contained in the Land Use Table in Clause 2.3 state:

R1: General Residential Zone

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the provision of tourist accommodation and related facilities and services in association with residential development where it is unlikely to significantly impact on amenity or place demands on services beyond the level reasonably required for residential use.*

E1: Local Centre Zone

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*
- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To provide for tourism and residential opportunities that contribute to the vitality of the local centre.*
- *To encourage development that is of a scale consistent with surrounding neighbourhoods and that promotes a sense of place and focal points for the local*

community.

The proposal is considered to be generally consistent with these zone objectives for the following reasons:

- The proposal provides for the housing needs of the community with a variety of housing types including 1, 2 and 3 bedroom apartments and
- The proposal provides for residential development which is consistent with other development in the vicinity of the site and is of a consistent scale with surrounding neighbour.

General Controls and Development Standards (Part 2, 4, 5 and 7)

The TLEP 2014 contains development standards, miscellaneous provisions and local provisions, which are relevant to the application and considered in **Table 6** below. The maximum building height and FSR for the site is illustrated in **Figure 25**, however, as outlined in this report, the concept approval sets the maximum height of four (4) storeys and therefore the height of buildings development standard in Clause 4.3(1) of the LEP has no effect.

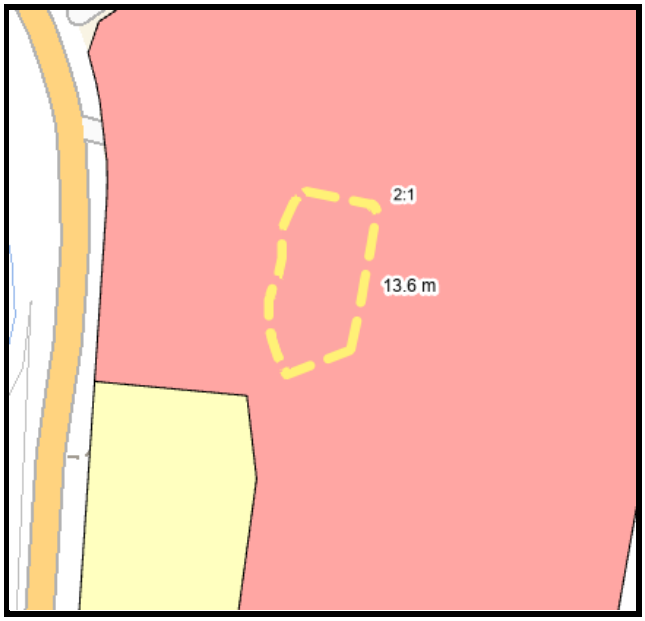

Figure 25: Maximum Height of Buildings and FSR - Tweed LEP 2014 *(Source: NSW Planning Portal)*

Table 6: Consideration of the LEP Controls (bold preconditions)

CONTROL	REQUIREMENT	PROPOSAL	COMPLY
Height of buildings (Cl 4.3(2))	4 storeys (concept approval) 13.6 metres (LEP)	4 storeys	N/A Refer below
FSR (Cl 4.4(2))	2:1 (14,708m²)	1.48:1 (10,851.1m²)	Yes
Land acquisition (Cl 5.1/5.1A)	Land noted on acquisition map	The site is not on the map.	N/A
Heritage (Cl 5.10)	Consider heritage items	There are no heritage items on the site or in the vicinity of the site.	Yes
Flood planning	Land within the flood	The land is not identified as	N/A

(Cl 5.21)	planning area	being affected by the 1% AEP flood or the Probable Maximum Flood. The site is not within the flood planning area.	
Acid sulphate soils (Cl 7.1) (Class 4 land)	*Works more than 2 metres below the natural ground surface. Works by which the water table is likely to be lowered more than 2 metres below the natural ground surface.*	The proposal involves works below the natural ground surface for the proposed basement of approximately 3 metres, therefore consent is required. An *Acid Sulfate Soil Investigation Report* has been provided with the application, which concluded that on the basis of the testing undertaken, all samples provided nett acidity values below the ASSMAC defined action criteria. Therefore, soils disturbed on-site do not require treatment for acid sulfate potential. An ASSMP is not required as the preliminary investigation concluded that there were no ASS on the site.	Yes
Earthworks (Cl 7.2)	Matters to be satisfied prior to granting consent.	The proposal involves earthworks and excavation for the proposed basement, however, it is considered that there will be no adverse impacts on adjoining properties and will be carried out in accordance with best practice industry standards.	Yes Refer below
Stormwater Management (Cl 7.6)	Matters to be satisfied prior to granting consent.	Outlined on the stormwater plan and is satisfactory.	Yes Refer below
Airspace operations (Cl 7.8)	If the proposed development will penetrate the Limitation or Operations Surface, the consent authority must not grant development consent unless it has consulted with the relevant	The site is affected by the OLS for Gold Coast airport, being within then 149m AHD OLS zone. The proposal will not penetrate the limitation or operations surface.	Yes

	Commonwealth body.		
Essential Services (Cl 7.10)	Matters to be satisfied prior to granting consent – essential services are available or adequate arrangements have been made to make them available.	Adequate services are provided on the site.	Yes Refer below

Height (Clause 4.3(2))

Building height is defined in the TLEP 2014 as:

> *building height (or height of building) means—*
> *(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
> *(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,*
> *including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

The definition of a basement is also relevant to this proposal and is defined in the TLEP 2014 as:

> *basement means the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing).*

The proposal involves four (4) buildings (or part thereof) which comprise differing heights arising from the minor changes in topography across the site. The height limit of the site is provided by the concept plan approval and consists of four (4) storeys, while the TLEP 2014 provides a height limit of 13.6 metres.

The following heights in accordance with the definition of the TLEP 2014 are proposed:

- Building A: parapet at 13.5m (NW), lift overrun: 14.6m (RL 22.750), Clerestory x 2: 14.6m (RL21.60) and 4 storeys;
- Building B: parapet: 13.7m (E) 260m², lift overrun: 15.4m (RL 23.05) and 4 storeys;
- Building C: parapet: 13.5 (S), lift overrun: 14.9m (RL 21.85), clerestory x 4: 14.6m to 6.6m and 4 storeys; and
- Building D: parapet: 12.05 (West) and 3 storeys (as the basement is more than 1 metre out of the ground).

All of the buildings are consistent with the four (4) storey height limit under the concept approval and a Clause 4.6 variation request is not required. The only portion of the basement which is more than 1 metre out of the ground is for Building D which is otherwise only two (2) storeys above the ground thereby making it a three (3) storey building and under the height limit.

In relation to the 13.6 metre height limit under the TLEP 2014, for comparison purposes, the parapets for Buildings A, C and D are all below the 13.6 metre building height, however, the parapet of Building B exceeds the 13.6 metres by a minor amount for a 260m² portion of the roof (adjoining Building C). There are also a number of minor rooftop elements including clerestory lids and lift overruns which exceed the 13.6 metre limit (if it were to apply) (**Figure 26**). The proposal is satisfactory having regard to building height.

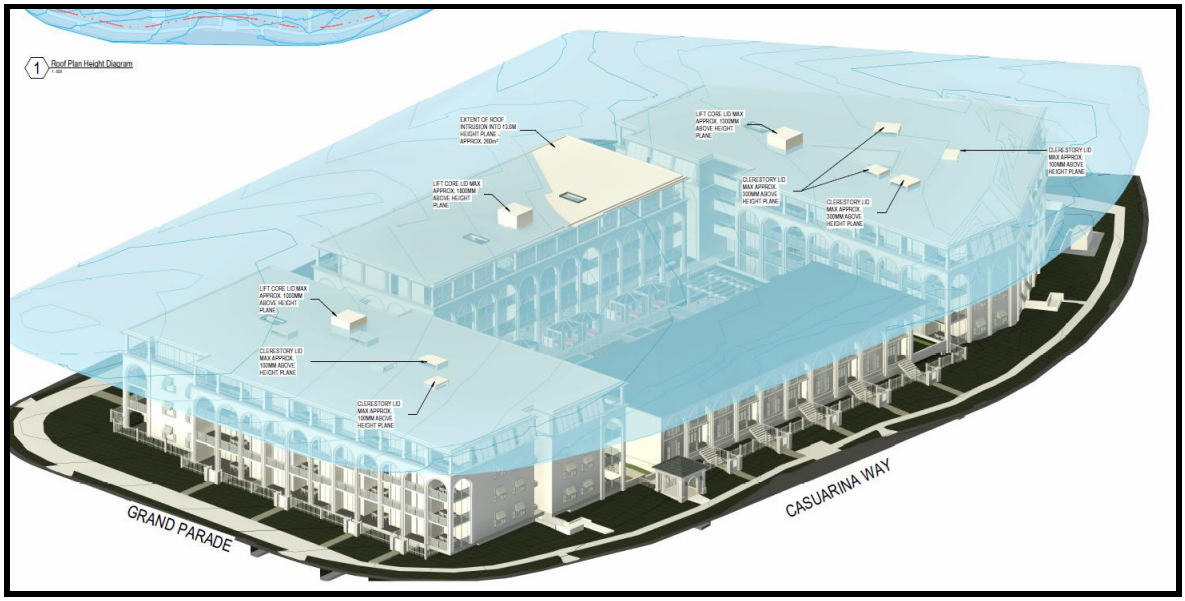

Figure 26: 3D Height Diagram *(Source: Conrad Gargett, Plan DA 324, August 2023)*

Earthworks (Clause 7.2)

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. Consent is required for earthworks unless the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.

In this regard, the proposed earthworks comprising excavation of approximately 3 metres for the basement require consent pursuant to Clause 7.2(2).

Pursuant to Clause 7.2(3), in deciding whether to grant development consent, the consent authority must consider the following matters—

(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
(b) the effect of the development on the likely future use or redevelopment of the land,
(c) the quality of the fill or the soil to be excavated, or both,
(d) the effect of the development on the existing and likely amenity of adjoining properties,
(e) the source of any fill material and the destination of any excavated material,
(f) the likelihood of disturbing relics,
(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,
(i) the proximity to, and potential for adverse impacts on, any heritage item, archaeological site, or heritage conservation area.

A Geotechnical Investigation prepared by Pacific Geotech dated 15 June 2022 ('the Geotechnical Report') has been provided for the proposal. This report concluded that based on the results of the preliminary investigation, it is considered that the site is suitable for the

proposed development from a geotechnical viewpoint. The Geotechnical Report by states that a geotechnical classification 'S' should be employed for the site, however, this conflicts with the s88b restriction (No 12) that the site classification is 'M' or poorer. Council's Engineer stated that Council's Building Unit is to further assess and condition any requirements for the construction of the basement structure including temporary shoring or permanent ground anchors. This could be addressed in consent conditions, were the application to be supported.

Relevant conditions on any consent granted requiring further geotechnical reports at future stages of construction would be required to ensure that the proposal is constructed in accordance with the requirements of the Australian Standards and the NCC. The proposal is considered to be consistent with this Clause.

Stormwater Management (Clause 7.6)

The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters. Clause 7.6(3) requires that development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—

(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and
(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and
(c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters or, if the impact cannot be reasonably avoided, minimises and mitigates the impact.

The proposed stormwater management arrangements are considered in Clause 7.10 and are satisfactory subject to condition should the application be supported. Accordingly, the matters in the precondition to the grant of consent have been satisfied and consent could be granted having regard to this Clause, should the proposal as a whole have been considered acceptable.

Essential Services (Cl 7.10)

Consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—

(a) the supply of water,
(b) the supply of electricity,
(c) the disposal and management of sewage,
(d) stormwater drainage or on-site conservation,
(e) suitable vehicular access.

A Revised *Engineering Services Report* prepared by ADG dated 18 August 2023 ('Engineering Services Report') was provided as part of the amended package in August 2023 which addressed the concerns outlined in the RFI dated 30 March 2023. Council's engineers have reviewed the proposal and consider the proposal is satisfactory subject to relevant conditions of consent requiring certain matters in relation to servicing to be addressed as construction progresses (should the application be approved).

The following comments in relation to the servicing of the site include:

Water Supply

Council's reticulated potable water supply exists in the area with capacity for the proposal. To service the site, the Engineering Services Report proposes to maintain the existing property connection that is provided from the DN150 main located within the non-development side verge of Habitat Drive in the north-east corner of the site. Council's Water and Wastewater Unit consider that a Council water meter is proposed to be provided within the site, is accessible at all times and is clear of any vegetation in excess of 1.0m in height. The remaining details would be considered at the Section 68 stage. The proposed arrangements for a water supply to the proposal are satisfactory and further requirements could be addressed in consent conditions, were the application approved.

Electricity Supply

Electricity services are currently provided in the area, with the proposal involving the relocation of the electrical ground substation from its current location in the southeastern corner of the site to the west side of the development on Casuarina Way. The local electricity supplier is Essential Energy which have raised concerns with the safety of the proposed development having regard to the existing infrastructure in the area. This is further outlined in the Transport & Infrastructure SEPP consideration.

Sewage Management

Council's piped effluent disposal infrastructure exists in the area with capacity for the proposal. To service the site, the Engineering Services Report proposes that the existing sewer junction is to be completely removed as well as a portion of the sewer main. A new main extension will be installed to facilitate a new sewer junction that will allow the proposed sewer junction inspection opening ('IO') to be located 1 metre clear of the proposed basement wall.

It has also been noted by Council's engineers that the new sewer junction IO is located within a proposed DSZ and therefore advises that should the application be approved, notes are to be made on the stamped plans to restrict the planting of mature vegetation that will exceed 1.0m in height. This area of DSZ has not been used in the final DSZ calculation for the ADG assessment. The remaining details regarding the sewer junction would be considered at the Section 68 stage.

The requirement for owner's consent was identified following the provision of the amended plans, from the landowners of Lot 27 DP 1264557 to facilitate the proposed sewer main works. This lot is the adjoining lot owned by Council as the drainage reserve and has now been provided.

The proposed arrangements for sewage management to the proposal are satisfactory and further requirements could be addressed in consent conditions.

Stormwater Drainage

The legal point of discharge for the site is the stormwater network within the surrounding roads in Grand Parade, Casuarina Way and Habitat Drive. There is no further public drainage infrastructure proposed to be created. Connection is proposed into an existing stormwater inlet pit and 450mm diameter pipe located close to the southwest corner of the property.

A restriction on the 88B instrument requires the discharge of a minor storm (3 month event) into an infiltration device to reduce the peak discharge from the site by collecting, storing and

infiltrating the first part of any storm event. This reduces the impact of stormwater at the legal point of discharge for minor storms. The entire Casuarina subdivision is subject to infiltration for the drainage of roof water due to the area being filled with sand.

An infiltration tank which also provides an OSD function has been proposed to be constructed below the basement car park, which discharges to existing public infrastructure on Grand Parade through a grated surcharge pit inside the property boundary. Runoff from the hardstand areas and roof water are directed to the infiltration device, which also provides a stormwater quality function. A propriety device such as an oil and sediment separator is proposed in the basement to treat basement hardstand areas.

Further geotechnical advice was requested by Council's stormwater engineer to demonstrate that the infiltration tank can function as designed with the high ground water levels in the area, which has now been adequately addressed. A section 68 stormwater application would be required for connection to the street, infiltration pit, propriety stormwater treatment device and sediment / erosion control, were the application to be approved.

The proposed arrangements for stormwater management to the proposal are satisfactory and further requirements could have been addressed in consent conditions.

Vehicle Access

Council's Traffic Engineer has reviewed the proposal and considers that all local roads have been built-for-purpose to suit the nature of the proposed development in this precinct and are therefore satisfactory. The proposal involves vehicular access to the basement parking level from Habitat Drive, which is satisfactory with compliant gradients. Sight line triangles have been provided adjoining the driveway entry/exit. The proposed arrangements for vehicle access to the proposal are satisfactory.

Accordingly, the matters in the precondition to the grant of consent have been satisfied and should the proposal have been considered acceptable on the whole, consent could be granted having regard to this Clause subject to relevant consent conditions where required.

The proposal is considered to be generally consistent with the LEP.

(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are several proposed instruments which have been the subject of public consultation under the EP&A Act, and are relevant to the proposal, including the following:

- *Draft Remediation of Land SEPP*

These proposed instruments are considered below:

Draft Remediation of Land SEPP

The proposed remediation of land SEPP will:

- Provide a state-wide planning framework for the remediation of land;
- Maintain the objectives and reinforce those aspects of the existing framework that have worked well;
- Require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land;

- Clearly list the remediation works that require development consent;
- Introduce certification and operational requirements for remediation works that can be undertaken without development consent.

Consideration of this draft instrument is considered under the assessment of the Resilience & Hazards SEPP in Section 3.1(a) of this report.

The proposal is generally consistent with these proposed instruments.

(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The *Tweed Development Control Plan2008* ('TDCP 2008') is relevant to this application, which came into effect on 30 April 2008. The following sections are relevant to the application:

- Section A1: Residential and tourist development – Part C (Shop top & Residential Flat Buildings)
- Section A2: Site Access and Parking
- Section A15: Waste Minimisation and Management
- Section B5: Casuarina Beach
- Section B9: Tweed Coast Strategy

It is noted that the site is not affected by Section A19: Biodiversity and Habitat Management as the application does not satisfy the criteria in Clause 3 of this Section. Similarly, Section A16 does not strictly apply as there are no trees on the site. While Section B9 applies to the site, it contains high level strategic parameters for the Tweed Coast broadly defined as from Chinderah to the North, the Pacific Ocean to the East, the Tweed Coast Motorway to the West and Cudgen Lake to the South. This Section of the DCP contains controls for the location of roads and centres and other strategic land sues and controls, with no directly applicable sections to the current application.

The relevant sections are considered below.

Section A1: Residential and tourist development – Part C (Shop top & Residential Flat Buildings)

This Section provides the controls for residential flat buildings with Chapter 1 providing controls relating to building type and Chapter 2 providing the site and building controls under a number of design controls. These controls are summarised below, with a detailed compliance table in **Attachment C**.

- Chapter 1 – The proposal is generally consistent with these controls with the exception of the maximum building length of 35 metres. Proposed Buildings A, B and D exceed this maximum building length including the following:

  - Grand Parade: Building A has an overall length to this frontage of 51.5m;
  - Habitat Drive: Building B has an overall length to this frontage of 42.5m
  - Casuarina Way: Building D has an overall length to this frontage of 43m,

  The overall lengths of the proposed building is satisfactory however, it is the inadequate building separation which exacerbates the bulk of the buildings to the street which is unsatisfactory. This is considered further in the key issues section of this report.

- Chapter 2 – This chapter contains the design controls which are considered below:

- *Design Control 1: Public Domain Amenity* – The proposal is inconsistent with the deep soil zone and façade controls in this section, which requires the integration of the design of architectural features, including stairs and ramps, within the overall facade design. There are concerns with the design aesthetic of the proposal and the height of Building D above the street, which is considered further in the key issues section.

- *Design Control 2: Site Configuration* – This section contains controls relating to deep soil zones, impermeable site area and privacy impacts arising from the proposed communal open space. The matters are considered under the ADG, however, the proposal does not comply with the maximum area for impervious surfaces which is considered in the key issues section of this report.

- *Design Control 3: Setbacks* – These matters are considered under the ADG assessment and Section B5 of the TDCP 2008.

- *Design Control 4: Car Parking and Access* - These matters are considered under the ADG assessment and Section A2 of the TDCP 2008.

- *Design Control 5: Building Footprint and Attics, Orientation and Separation* – These matters are considered under the ADG assessment and Section B5 of the TDCP 2008.

- *Design Control 6: Height* – This is considered under the LEP assessment.

- *Design Control 7: Building Amenity* - These matters are considered under the ADG assessment. The proposal achieves the sunlight access and view sharing requirements for the adjoining properties of this section of the DCP.

- *Design Control 8: Internal Building Configuration* - These matters are considered under the ADG assessment.

- *Design Control 9: External Building Elements* - These matters are considered to be satisfactorily addressed given the proposal now involves open form fencing. The design and roof matters are considered in the ADG assessment.

- *Design Control 10: Building Performance* – satisfactorily addressed through the BASIX certification.

- *Design Control 11: Floor Space Ratio (FSR)* - This is considered in the LEP assessment.

Section A2: Site Access and Parking

This section provides controls relating to car parking, pedestrian movement in and around sites and for the management of generated traffic volumes to ensure potential adverse impacts on the local road network are minimised. The controls of this Section are considered below and are included in a detailed compliance table in **Attachment C**.

The required car and bicycle parking for the proposal is contained in Clause A2.3 of Section A2 of the TDCP 2008, outlined in **Table 7**.

Table 7: Car Parking and Bicycle Parking required

UNIT	NO PROPOSED	REQUIRED	PROVIDED	COMPLY
2 Beds (1.5 spaces)	55	82.5 spaces		Yes
3 beds (2 spaces)	20	40 spaces		Yes
4 beds (2 spaces)	4	8 spaces		Yes
Visitors (1/4)	79	20 spaces	20 spaces	Yes
Total residential required	79	131 spaces	155 spaces	Yes (+24)
Bicycle spaces	Residential	79 spaces	34 spaces	**No (45 deficient)**
	Visitor	10 spaces	10 spaces	Yes

The proposal is consistent with the requirements for car parking with the provision of 24 car spaces above the requirement, however, is inconsistent with the requirements for bicycle parking for residents. The controls require that a bicycle space is provided for each residential apartment proposed as well as 10 bicycle spaces for visitors. While the visitor bicycle spaces are provided in convenient locations at ground (street) level, there are only 34 resident bicycle spaces provided for the proposed 79 residential apartments, resulting in a deficiency of 45 resident bicycle spaces for the proposed development.

It is noted that there are an additional 24 car parking spaces provided in the basement which could be used for bicycle parking, which suggests there is space for the required cycle parking to be provided. A consent condition could be imposed to provide additional bicycle spaces on the site, however, design changes would be required. This issue could be readily resolved, however, is currently unsatisfactory and is considered in the key issues section of this report.

There were concerns with the original proposal in relation to the layout of the basement, which resulted in long and convoluted paths of travel for pedestrians in the basement, which have been improved with the amended plans. There were also concerns with the number of tandem spaces proposed (10 pairs) which have now been reduced to three pairs of tandem spaces. This is satisfactory as these spaces can be allocated to the same unit as both three and four bedroom units will require two (2) allocated spaces.

Further improvements in the amended plans included the visitor parking spaces being contained within a roller shuttered area with an intercom to access the lifts providing improved access for visitors to the development without compromising the safety of the resident parking and storage spaces. The vehicle access is satisfactory, occurring from the lowest order road in terms of traffic volumes and the sight distances is consistent with relevant standards.

The trip generation is consistent with the planning for the area and therefore, no significant impact on traffic operations is expected. The site is close to public transport routes with a bus stop located adjoining the site. The proposed basement appears to be consistent with the requirements of AS2890.1 with no objections from Council's traffic engineer. The proposal is generally consistent with the remainder of the controls of this section of the DCP.

Section A15: Waste Minimisation and Management

This Section provides the controls for waste minimisation and management, which are considered below and are outlined in a detailed compliance table in **Attachment C**. The waste generation rates for the proposal and the required bins are outlined in **Table 8** pursuant to Clause 3.4.3 of Part 4 of Section A15.

Table 8: Consideration of Waste Generation Rates

BLDG/ NO UNITS	WASTE	RECYCLING	WASTE PROVIDED	RECYCLING PROVIDED	COMPLY
	Rate (L)/ unit/ week	Rate (L)/unit/week	Total /week (L)	Total /week (L)	
Bldg A - 35	80/week = 2,800L	40/week = 1,400L	4,000 (2 x 2,000L)	1,440 (4 x 360L)	Yes
Bldg B - 8	80/week = 640L	40/week = 320L	2,000 (1 x 2,000L)	360 (1 x 360L)	Yes
Bldg C + D - 36	80/week = 2,880L	40/week = 1,440L	4,000 (2 x 2,000L)	1,440 (4 x 360L)	Yes
TOTAL - 79	**6,320L**	**3,160L**	**10,000L (5 x 2000L bins)**	**3,240L (10 x 360L bins)**	

The proposed waste management arrangements include the provision of waste chutes within Buildings A, B and C, with residents of Building D to use the waste area for Building B. On-street collection is proposed for both the waste and recycling from the site. The required number of bins are proposed to be provided in the bin rooms in the basement and can be stored within the central street level storage room prior to collection.

An on-street collection service is provided by Council for both the waste and recycling bins. The 360L recycling bins are proposed to be placed directly on the kerb by the Building Manager for collection by Council and returned to the basement waste rooms by the Building Manager. The 2,000L waste bins will be transported via a bin tug to the holding area on the ground floor (street level) adjoining the vehicle entry by the Building Manager (**Figure 27**). It is then proposed that Council will transfer the bins to the kerb from the bin holding area, service the bins and then return them to the bin holding room on the ground floor.

Council's Waste Officer considers that Council can service the bins subject to the Building Manager presenting all of the bins (waste and recycling) to the kerb for collection, which can imposed as a condition on any consent granted.

The *Environmental Noise Assessment Report*, prepared by ttm dated 23 August 2023 ('Noise Report') considered the likely acoustic impacts of the waste collection from Habitat Drive. The Noise Report concluded that waste collection is predicted to exceed the criteria in all assessment periods comprising the day, evening and night. Therefore, one of the Noise Report recommendations included that waste collection occurs during daytime hours or in line with surrounding properties (page 19). This can be achieved with consent conditions given Council are to service both waste and recycling bins and therefore all bins will be serviced in the street at the same time, reducing acoustic impacts to residents in Habitat Drive.

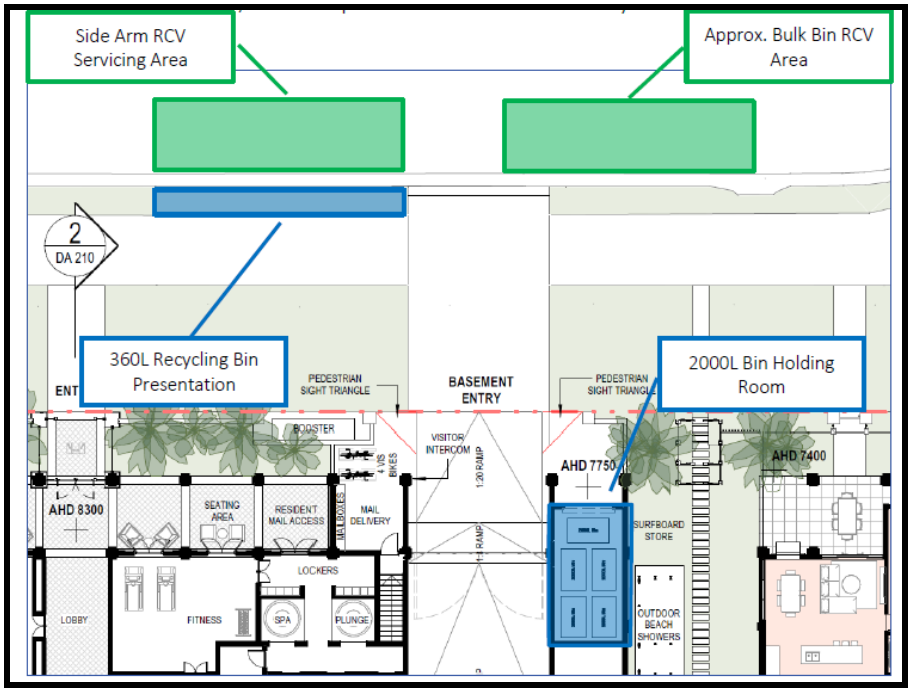

Figure 27: Proposed Waste Collection Arrangements (*Source: Waste Plan, TTM, August 2023*)

Section A15, Part D Clause 2.4(v) of the TDCP 2008 requires that for multi-storey developments that include ten or more dwellings, a dedicated room or caged area must be provided for the temporary storage of discarded bulky items which are awaiting removal. The storage area must be readily accessible to all residents and must be located close to the main waste storage room or area. This area has not been provided, but could be readily provided subject to design changes. This is further considered in the key issues section of this report.

Section B5: Casuarina Beach

This Section of the DCP contains objectives and controls relating to urban design as well as the management of infrastructure provision and environmental matters. The relevant controls for the proposal are considered in **Table 9** and in the key issues section of this report.

Table 9: Consideration of Section B5 of the TDCP

REQUIREMENTS	PROPOSAL	COMPLY
B5.2: Urban Design		
B5.2.2 –Urban Design principles		
1. East/west open space and cycleway/footpath linkages shall be provided as shown on S94 Plan No 22 - Cycleways (Maps 8 and 9).	Nothing required on the site.	✓
2. (a) Minimum setback from the street front boundary to the wall of a dwelling is to be not less than six (6) metres.	The setback to Casuarina Way is generally 6 metres with some encroachments. This is further considered in the key issues section.	Key issues
(b) Minimum setback from the street front boundary to the wall of a single garage is to be not less than 5.4 metres and not less than 5 metres to the wall of a double	Not proposed.	N/A

garage.		
(c) Special design elements such as verandas, entrances and the like constructed of open design shall be setback a minimum of 3 metres from the front street boundary.	The front verandahs for proposed Building D encroach into the front building setback.	Key issues
(d) The minimum side boundary setback for any dwelling shall be not less than 900mm to the wall and not less than 675mm to the outer most projection of the eave.	Not proposed.	N/A
(e) The minimum setback from a secondary street boundary of a corner lot to the wall of a dwelling is to be not less than 3 metres.	The proposal is setback 3 metres from the secondary frontages of Habitat Drive and Grand Parade.	✓
(f) For beachfront lots, the rear building line is the boundary line between the 2(e) and 7(f) zones. No structures are permitted within the 7(f) zone.	Not relevant to the site.	N/A
(g) All fencing east of the 7(f) and 2(e) zone boundary shall be a maximum height of not more than 1.2 metres.	Not relevant to the site.	N/A
B5.3: Management of Infrastructure Provision		
Infrastructure requirements for the subdivision.	Having regard to infrastructure matters, the proposal is generally consistent with the approved concept plan for the site and Council's engineers do not object to the proposal subject to relevant consent conditions.	✓
B5.4: Management of Environmental Matters		
Controls for the management lot, koala feed trees, dedicated open space, provision of sewerage pumping stations, dune management plan and coastal works.	Having regard to environmental matters, the proposal is generally consistent with the approved concept plan for the site and the site is not affected by these matters. Council's engineers do not object to the proposal subject to relevant consent conditions.	✓

Contributions Plans

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

- No 4 – Tweed Road Contribution Plan (September 2016);
- No 5 – Local Open Space (July 1999);
- No 11 – Tweed Shire Library Facilities (December 2009);
- No 12 – Bus Shelters (December 2009);

- No 13 – Eviron Cemetery (December 2009);
- No 18 – Council Administration Offices & Technical Support Facilities (October 2016);
- No 19 – Casuarina Beach/Kings Forest (August 2022);
- No 22 – Cycleways (December 2009)
- No 26 – Shirewide Regional Open Space (December 2009); and
- No 32 – Developer Contributions for Heavy Haulage (November 2022)

This Contributions Plan has been considered and can be addressed in relevant consent conditions where required.

(d) Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

(e) Section 4.15(1)(a)(iv) - Provisions of Regulations

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal. In this case, there are no matters which are relevant to the proposal.

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the 2021 EP&A Regulation are also not relevant to the proposal. These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

3.2 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- Context and setting – As set out earlier in the report in relation to the Design Principles in SEPP 65, the proposed facades of the building are unsatisfactory and exacerbate the bulk and scale of the proposed building forms.. The design of the proposed building forms on the site is considered to be unsatisfactory as outlined in this report, which is likely to adversely impact on the streetscape.

- Access and traffic – The proposed vehicle access and car parking are considered to be satisfactory as outlined in Sections 3 and 5 of this report with the exception of bicycle parking. There are adequate public transport options available at the site and the traffic generation of the proposal is within the capacity of road network.

- Public Domain – The proposal adequately connects with existing pedestrian linkages in the area, however, there are some concerns with the connection of proposed Building D to the public domain along casuarina Way. There are also concerns with

the design of the proposal and its presentation to the public domain is generally satisfactory. These matters are considered in the key issues section of this report

- Utilities – The required utilities for the site are available in the vicinity and have been adequately demonstrated as outlined this report.

- Heritage – There are no heritage items located on the site contain or on any adjoining or nearby sites. In relation to Aboriginal cultural heritage, an AHIMS Search did not identify any recorded Aboriginal sites or places within 200m of the site and the site is not mapped as a "known" or "predictive" place of Aboriginal cultural heritage significance under the *Tweed Shire Aboriginal Cultural Heritage Management Plan 2018.*

- Other land resources – The site is not located within or adjacent to water catchment, agricultural or mining land uses in the area, and is considered to be satisfactory in the site context.

- Water/air/soils impacts - The potential for contaminated land is considered in the assessment under the Hazards & Resilience SEPP and is found to be satisfactory.

- Flora and fauna impacts - There are no ecological impacts or tree removal proposed.

- Natural environment – There are no trees proposed to be removed and there are earthworks proposed on the site, however, impacts to the natural environment have been minimised.

- Noise and vibration – An Acoustic Report has been provided which has been considered by Council's Environmental Health Officer who was satisfied with the report. Potential acoustic impacts to some of the proposed apartments from the COS is considered in the ADG assessment and potential acoustic impacts arising from waste collection is also considered in the key issues section of this report.

- Natural hazards – The site is not affected by flooding or bushfire and has the hazard been adequately addressed by the proposal. The proximity to the coast is considered in the Resilience & Hazards SEPP assessment and found to be satisfactory.

  Bushfire

  The site was mapped as Bushfire Prone Land, however, updated mapping now indicates that the site is not bushfire prone land. The previous mapping indicated that the majority of the site was within Vegetation Category 1, with a small section along the western side boundary comprising vegetation – buffer, which triggered the need for a Bushfire Assessment. This Assessment noted that the land surrounding the site has been cleared as part of larger development works which is now reflected in this updated bushfire prone land mapping (**Figure 28**).

  Accordingly, no further assessment of the potential bushfire hazard is required for the proposal.

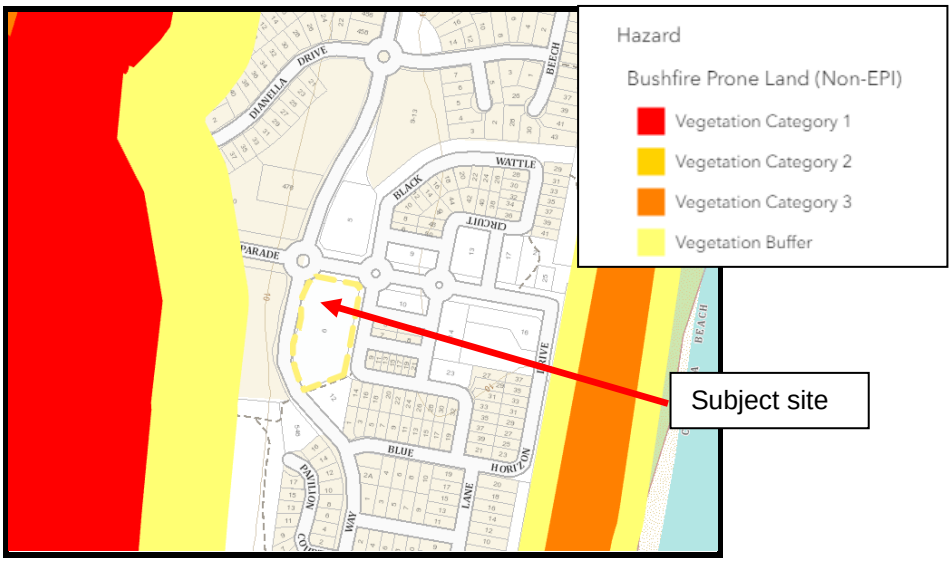

Figure 28: Bushfire Prone Land Mapping *(Source: NSW Planning Portal)*

- Safety, security and crime prevention – The proposal is considered to be satisfactory having regard to the CPTED Principles as there is good surveillance of the entry areas form the proposed apartments and the basement has been amended to provide clearer sight lines.

- Social impact – The proposal provides housing opportunities on the site and is unlikely to result in any adverse social impacts in the area.

- Economic impact – The proposal will assist with employment generation in relation to constructed related jobs. The proposal is considered to result in a positive economic impact.

- Site design and internal design – There are a number of concerns with the proposed building form on the site, which is considered in the key issues section of this report.

- Construction – Relevant conditions can be imposed to reduce potential construction impacts on any consent granted

- Cumulative impacts – The proposal will not result in any adverse cumulative impacts

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

3.3 Section 4.15(1)(c) - Suitability of the site

The site is considered to be suitable for the development given the proposal is for residential development in a residential and local centre zone. The proposal has been designed having regard to the topography of the site. There are adequate services, transport infrastructure and open space in the vicinity which will assist in minimising the impact of the development in the area. The site attributes are conducive to the development in that the proposal will provide additional residential development within an existing residential area in close proximity to the town centre and services. There are not any adjoining uses which are prohibitive of the proposal. The site is suitable for the development.

3.4 Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 4.3 of this report.

3.5 Section 4.15(1)(e) - Public interest

The proposal is not considered to be in the public interest as the proposal is inconsistent with a number of the planning controls relevant to the site as outlined in this report. Accordingly, on balance, it is considered that the proposal is contrary to the public interest.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in **Table 10**. The outstanding issues raised by Agencies are considered in Section 3 and the key issues section of this report.

Table 10: Concurrence and Referrals to agencies

Agency	Referral trigger	Comments	Resolved
Referral/Consultation Agencies			
Electricity supply authority	Section 2.48 – *State Environmental Planning Policy (Transport and Infrastructure) 2021* Development near electrical infrastructure	The substation must meet the clearance requirements of *AS2067: Substations and high voltage installations exceeding 1 kV a.c,* consistent with Essential Energy's design requirements - 2.14.3 Substations & Switching Stations (Locations). As per AS2067, this type of development requires the substation to be a minimum of 7.5 metres from the nearest building (closest part) unless specific requirements are met e.g. 120/120/120 fire rating, a fire report provided stating why reductions in the distances in AS2067 should be reduced (note Essential Energy must approve the fire report). At present, the proposal does not meet the requirements of AS2067.	**No**
Design Review Panel	Cl 28(2)(a) – SEPP 65	There is no applicable DRP for the LGA however Council's urban design officer has revised the	N/A

	Advice of the Design Review Panel ('DRP')	proposal and raises numerous fundamental concerns with the proposal. These issues are further discussed in the SEPP 65 assessment and the Key Issues section of this report.	

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 11.**

Table 11: Consideration of Council Referrals

Officer	Comments	Resolved
Urban Design	Council's Urban design officer has reviewed the proposal and raised fundamental concerns with the design of the proposed buildings and various inconsistencies with the ADG. The amended design was considered to have made some improvements to achieving bare minimum metrics of deep soil zone, communal open space and amended elevations to achieve minimum building separation. However, given the overall large size of the unencumbered development site and subtropical context, exceeding these minimum metrics to achieve a greater proportion of open space and landscape area is the preferred outcome. Furthermore, the building design was not supported and concerns were raised regarding natural ventilation of the top floor apartments which rely on clerestory windows for ventilation. The urban design matters are further discussed in the key issues section of this report.	**No**
Traffic	Council's Traffic Engineering Officer reviewed the original proposal and was generally supportive of the proposal with the exception of concerns in relation to the accessibility of visitor parking spaces (roller doors) and the tandem spaces are to be allocated to the same units. No objections were raised in the relation to the amended design.	Yes
Waste	Council's Waste Officer reviewed the proposal and was generally supportive of the proposal, with the exception of concerns relating to the process by which the bulk bins are provided to the street for collection. The bins will not be collected from the storage area and therefore this would be undertaken by the Building Manager. This can be dealt with via a condition.	Yes
Engineering	Council's Engineering Officer reviewed the original application and amended plans and considered that there were no objections subject to conditions.	Yes

Building	Council's Building Officer reviewed the original application and amended plans and considered that there were no objections subject to conditions.	Yes
Health	Council's Health Officer reviewed the original proposal and raised concerns in relation to amenity during construction, groundwater and dewatering, lighting, noise and waste management. Following the lodgement of the amended plans and additional information (including the revised Noise report), no objections were raised subject to conditions.	Yes
Roads & Stormwater (Infrastructure)	Council's Roads & Stormwater (Infrastructure) Officer reviewed the proposal and raised concerns in relation to the proposed infiltration tank below the basement car park. Geotechnical advice was requested to be provided which confirmed that the infiltration tank can function as designed with the high ground water levels in the area. The amended plans were reviewed and Council's engineers raise no objection to the proposal subject to recommended conditions and detailed design at the Section 68 stage.	Yes
Water & Wastewater	Council's Water & Wastewater engineer has reviewed the submitted information and requested further information to confirm that the proposal provides sufficient clearance to Council's infrastructure for the water main and sewer junction works. The amended plans were reviewed and no objections were raised with owner's consent having been obtained from Council for use of the adjoining drainage reserve to facilitate the proposed sewer main works.	Yes
Parks & Active Communities	Council's Parks and Active Communities Officer reviewed the application and considered that there were no objections subject to conditions.	Yes

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

4.3 Community Consultation

The proposal was notified in accordance with Council's Community Participation Plan, *Community Engagement And Participation Plan 2019–2024,* from Wednesday 3 August 2022 to Wednesday 17 August 2022. The notification included the following:

- An advertisement in the local Council newspaper, *The Tweed Link* (3 August 2022)
- A sign placed on the site;
- Notification on Council's website (DA Tracker); and
- Notification letters sent to adjoining and adjacent properties.

The Council received a total of seven (7) unique submissions, all comprising objections to the development application. The issues raised in these submissions are outlined in **Table 12** and are considered in further detail (where required) in the key issues section of this report. The issues have been adequately considered in this assessment. It is noted that the submissions were in response to the original plans and the amended plans were not re-notified.

Table 12: Community Submissions

Issue	No of submissions	Council Comments
Height limit	4	Concerns raised that the proposal does not comply with the relevant maximum building height. The submissions stated that it is unknown why Council can/will allow the proposal to exceed the height limit. The proposal includes five (5) storey elements due to the height of the basement out of the ground. Comment: The height limit for the site is 4 storeys as approved in the concept plan. The basement is below ground level (by at least 1 metre) with the exception of the Building D portion of the building form, which is considered to be three (3) storeys overall. This matter is considered further in the key issues section of this report. The proposal is consistent with the height limit under the approved concept plan.
Waste management	4	Concerns were raised that the waste management plan identified that 5 x 2,000lt bulk bins and 10 x 360lt wheelie bins will be placed on the Habitat Drive frontage for servicing. For a development of this size and the volume of refuse and recycling it generates, this represents an inappropriate outcome and will result in significant amenity and safety impacts on Habitat Drive. The proposed servicing location is directly adjacent to the proposed driveway and the intersection of Habitat Drive and Raintree Lane and Habitat Drive is a narrow road. Servicing safely on the street has not been considered or demonstrated, given the proximity to points of vehicle interaction and the on-street parking permitted and likely to occur in Habitat Drive. Onsite waste servicing, which would address these impacts, can easily be achieved onsite if the development proposed reduced yield and demonstrated compliance with planning provisions. Comment: Council's Waste and Traffic Officers have reviewed the proposal and do not raise concerns with the proposed waste management arrangements subject to relevant consent conditions where required. the lack of a bulky waste storage area is considered in the key issues section of this report.
Noise	1	An Environmental Noise Impact Assessment has been prepared which assesses the potential impact of the development on surrounding sensitive receivers. The report identifies that waste collection activities exceed the noise allowance limit during all periods (day/evening/night) at sensitive receiver location 2.

		Onsite waste servicing, which would address the impact on adjoining properties, can easily be achieved onsite if the development proposed reduced yield and demonstrated compliance with planning provisions. Comment: Council's Waste and Health Officers have reviewed the proposal and raised no objection to the proposal subject to a consent condition that the waste is collected during the day and in line with surrounding properties. This is considered further in the key issues section of this report.
Privacy	2	The submissions raised concerns with the proposed windows and balconies facing directly into the adjoining residential properties on the opposite side of Habitat Drive, including overlooking bedrooms, main living area, ground level alfresco and pool. Privacy screening to all balconies that face habitat drive should also be required. Comment: There is adequate separation between the proposed building (Building B) and the adjoining development, comprising the wide street verge plus the 3.5m wide path and the road reserve of Habitat Drive to the east to reduce potential overlooking opportunities.
Overdevelopment & density	1	There were concerns that there are a significant number of variations to the planning controls including more units than envisaged under the concept approval which set the urban design intent, but only with non-compliances with the planning controls. Comment: The proposal complies with the maximum FSR under the LEP. The planning controls are considered in Section 3 of this report and are further discussed in the key issues section where relevant
Streetscape	1	Concerns were raised that an appropriate interface to adjoining residential properties across Habitat Drive has been sacrificed to obtain additional units on the site. Comment: The proposed streetscape to Habitat Drive achieves the front setback for a secondary frontage and provides for balconies and other elements of articulation. There are concerns with the overall design aesthetic of the proposal which is considered in the key issues section of this report.
Setbacks	1	A submission raised concerns with the proposal involving several variations to the setback controls to all street frontages, which are exacerbated by the elevated balconies particularly to Habitat Drive

		(resulting in privacy impacts). A larger setback to Habitat Drive should be provided. Comment: The proposal complies with the setback to Habitat Drive and generally complies with the front setback requirements. This matter is further considered in the key issues section of this report.
Traffic generation	2	Concerns were raised that the proposal will result in traffic of approximately 200 cars per day in and out of the units, which the street is ill-equipped to handle. Casuarina Way being a large through road would be able to handle the traffic, or if the entry was positioned up by the roundabout on Grand Parade it would minimise the impact on neighbouring properties in the smaller streets. There are also a lack of pedestrian crossings in Casuarina Way and the roads are not sufficient for the proposal. Comment: The proposal is generally in accordance with the concept plan approval and Council's traffic engineer does not object to the proposal, having considered the existing roads and infrastructure in the area.
Vehicle entry point and Driveway sight triangles	2	The submissions stated that the proposed vehicle entry point will cause excessive noise, impact on amenity and increase the risk of an incident causing injury to children in a residential street comprised of houses. Headlight glare directly transmitting to habitable rooms opposite the site is also likely to occur, which is inconsistent with 3H of the ADG. The proposal does not identify compliant sightlines arising from the proposed solid planter bed structures that exceed 600mm in height directly adjacent to both sides of the driveway. These planter beds also include landscaping which further block site lines. This arrangement is not compliant and represents a significant pedestrian hazard. Comment: Council's traffic engineer and Health Officer have considered the proposed vehicle access point and does not object to the proposal subject to relevant conditions. The planter boxes have been removed in the amended plans and sight triangles have been provided.
Car Parking	1	Concerns were raised for the development to be capable of future strata subdivision, a minimum of 205 car parking spaces would be required. Without this number of car parks, the development will significantly impact Habitat Drive and surrounding streets due to on-street vehicle parking by residents of the proposed units.

		Comment: The proposal complies with the required car parking provision under the TDCP.
Bicycle parking	1	The submission stated that the development is undersupplied for both resident and visitor bicycle parking. The bicycle parking rates are not prohibitive. Not wanting to provide compliant bicycle parking or not being able to provide compliant bicycle parking because of overdevelopment of the site is not sufficient justification for such a variation. Comment: The proposal is consistent with the requirements for bicycle parking for visitors however is deficient in resident bicycle spaces. This is considered further in the key issues section.
Fences	1	There were concerns that the proposed fencing height and the solid ratio are non-compliant. The fencing provided to the balconies of the ground floor units exceeds 1.5m in height and is solid rendered concrete. This negatively impacts the Habitat Drive streetscape. Comment: The proposed solid masonry fences have been removed and the proposed open form palisade fencing is satisfactory.

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

1. Building Design
2. Deep Soil Zones and Landscaping
3. Proximity to Electrical Infrastructure
4. Natural Ventilation
5. Apartment Design and Layout
6. Building Separation
7. Privacy Impacts
8. Streetscape and front setback
9. Bicycle Parking and Bulk Waste Storage

5.1 Building Design

There are significant concerns with the design of the proposed buildings on the site, which have not been addressed in the amended plans, despite design advice regarding the inappropriate proposed architectural style. Given this is a large site and is located opposite the town centre area in a prominent location, the design of this building will substantially set the architectural character for the broader precinct. The concerns are outlined below.

Building Style

The proposed buildings comprise re-interpretated British Colonial plantation stylistic influences with elevations that combine three-storey high fluted arched forms, panellised glazing and expressed mullions, heavy set posts with capitals and tiered/corbelled fascia and gutter detail around the building's perimeter and a large, slated hip roof form (Building D).

This proposed architectural faux heritage stylistic appearance and components accentuates the buildings overall bulk and scale and is incompatible with the Australian contemporary coastal aesthetic which is emerging within this part of the Tweed Coast. Existing developments in the area, which have been recently constructed, representing the prevailing character in the area, are illustrated in **Figures 29** to **33**.

The application indicates that there is an absence of a unifying design aesthetic within the area, which the application considers to comprise a mix of styles including lightweight coastal beach houses, masonry project houses and international styles from the Hamptons and Palm Springs. However, these styles are generally characterised by lightweight materials and colours including weatherboards, cladding with some textured bricks in light, neutral tones, reflecting a contemporary coastal style. This prevailing style has not been achieved, with the proposed faux colonial heritage aesthetic being inconsistent with this prevailing style.

Figure 29: No 5 Habitat Drive opposite the site

Figure 30: No 7 Habitat Drive opposite the site

Figure 31: Commercial development on the opposite side of Casuarina Way

Figure 32: Developments along Black Wattle Circuit

Figure 33: Approved PAMA development (*Source: Council DA tracker*)

Building form and Features

The repeated arches which extend from the ground level to the third storey, dominate all of the building's elevations with the overall length of the arch 'pier' accentuating the verticality and therefore height, scale and mass of the building (**Figure 34**). Furthermore, the high fluted arched forms, panellised glazing and expressed mullions, heavy set posts with capitals and tiered/corbelled fascia also contribute to unnecessary bulk to the elevations and which is contrary to the lightweight materials which are required to be utilised to ensure the building is compatible with existing development in the area.

Overall, the building has a very heavy-set aesthetic due to the heavy 'base' scale of the development, with a 3 storey street wall height which is topped with a bulky roof form comprising more heavy columns with a flat, concrete roof. The application states that the base, middle and top typology has been achieved through the individual entries, gatehouses and the building itself as the base, the colonnade as the 'middle' and the roof form as the 'top'. However, this is not supported. The building is dominated by the concrete arches and heavy roof, with no defined middle given the three storey street wall height. The TDCP 2008 also requires this base, middle and top typology (Chapter 1 – building types – of Section A1), which has not been achieved by the proposal.

Figure 34: Photomontage of the Proposal

Materials and Finishes

In terms of material finishes, the building relies heavily on painted rendered masonry (concrete block) as the principal material, which is only slightly offset by secondary materials to the balustrades, shutters and awnings. Due to the primary use of rendered masonry, the building has a very heavy-set appearance. Painted finishes within the coastal environments typically rely on a higher maintenance requirement and tend to easily water stain, crack, and flake.

Inclusion of a more diverse material palette that focusses lighter weight materials to the building's upper levels and greater definition between ground, middle and building top has not been achieved by the proposal. There is also a lack of balanced composition with an insufficient mix of horizontal and vertical elements, textures, materials, and colour selections. More contemporary materials, design features, balustrades and window awnings would be more appropriate for the site's context.

The larger buildings (A, B, C) lack a sense of scale, proportional finesse, and the generous

landscaped settings that many of the revered grand colonial architectural buildings typically have. This concrete heaviness is extended to the side elevations of Buildings B and D where inadequate building separation has resulted in blank concrete facades to other buildings within the site (considered further in the building separation issue below).

The adjoining PAMA development comprises a mix of materials, without the heavy set concrete columns and arches, a lighter weight texture of aluminium screens and roofline without the heavy detailing of the faux heritage elements.

Roof form

The proposed roof forms are also unacceptable as the roof design adds significant bulk and scale to the development, comprising flat concrete roofs for Buildings A, B and C and a large, hipped, tiled roof for Building D. Such roof forms are inconsistent with the prevailing character of the area, which generally comprises roof which are sloping, lightweight metal roofs (refer to Figures above).

In particular, the proposed roof for Building D is out of character with the area, is excessive in its scale and encroaches into the front setback to Casuarina Way (**Figure 35**). This roof also adds unnecessary bulk and height to the development. The roof material does not compliment the building in that it adds more weight to the overall building form and is not of a lightweight construction.

Figure 35: Photomontage of Proposed Building D

Having regard to these design concerns, it is considered that the proposal is contrary to the objective of Part 4M-1 of the ADG in relation to the building facades in that they do not provide visual interest along the street while respecting the character of the local area. The overall colonial design aesthetic is incompatible with the contemporary coastal aesthetic which is emerging in the area, there is a lack of lightweight materials and there is a lack of variety in the facades given the repetitious arches and heavy set columns and rooflines.

The proposal is also considered to be inconsistent with Objective 4N-1 (roof design) of the ADG in that the proposed roof treatments are not integrated into the building design and do not positively respond to the street. The Design Guidance has also not been achieved by the proposal as the roof design does not relate to the street in that skillion or very low pitch hipped roofs have not been used and the breaking down the massing of the roof by using smaller elements to avoid bulk has not been undertaken. The materials are also not complementary to adjacent buildings.

The proposed roof treatments have also not been integrated within the building design, particularly for Building D where the heavy, hipped roof design is dis-proportionate to the overall building size, scale and form which is only two storeys above ground (in addition to the basement which is more than a metre out of the ground). The proposed roof design is also inconsistent with Design Control 9 (External building elements) of the TDCP 2008 in that the roof to Building D is not a compatible roof form or material to adjacent buildings.

In summary, it is considered that the proposed design of the buildings is unsatisfactory given the architectural faux heritage stylistic appearance accentuates the buildings overall bulk and scale and is incompatible with the Australian contemporary coastal aesthetic emerging in the area. The lack of lightweight, coastal materials and the heavy roof forms combine to result in an adverse streetscape appearance which is not supported. This matter warrants refusal of the application.

5.2 Deep Soil and Landscaping

Deep Soil Zone

The Design Criteria for deep soil zones ('DSZ') pursuant to Part 3E of the ADG requires that a DSZ is to comprise a minimum dimension of 6 metres and a minimum of 7% of the site area. A total DSZ of 514.78m² is required for the current proposal, based on a total site area of 7,354m². The ADG Design Guidance further provides that for a site greater than 1,500m², a DSZ of 15% of the site area should be provided, which would require 1,103.1m² of DSZ for the current proposal. Design Control 2 (site configuration) of the TDCP 2008 also provides controls for deep soil zones, which have not been satisfied by the proposal.

The proposal involves a DSZ comprising 328m² with a minimum dimension of 6m, which represents 4.46% of the site (**Figure 36**). This results in a shortfall of 186.78m² of DSZ on the site in accordance with the requirements of the design criteria and a 775.1m² shortfall in relation to the Design Guidance of the ADG.

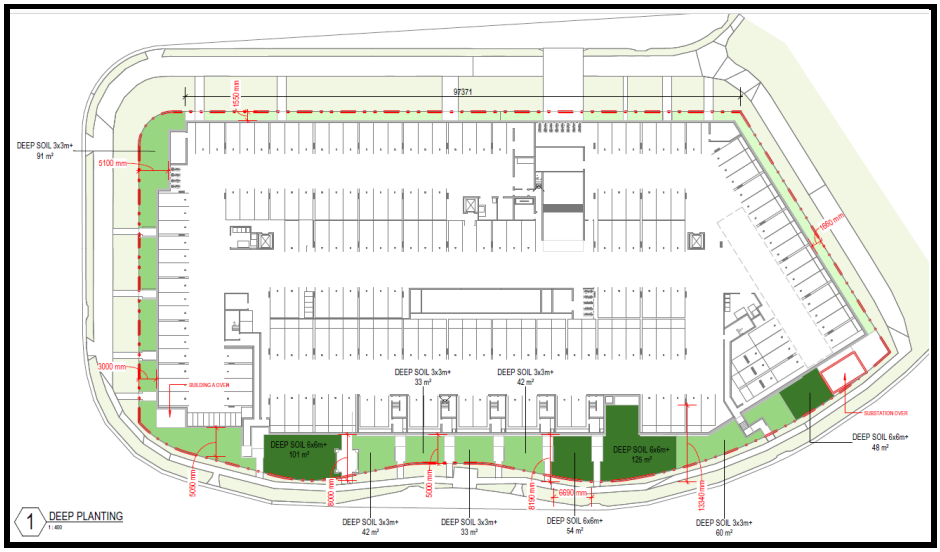

Figure 36: Proposed Deep Soil Zone (*Source: DA326, Conrad Gargett, August 2023)*

The proposed DSZ is considered unsatisfactory for the following reasons:

- <u>Objectives not satisfied</u> – Objective 3E-1 of the ADG states:

Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality

The proposed DSZ areas do not satisfy these objectives as the proposed areas generally comprise small, separate areas of planting surrounding the edges of the proposed basement, entry stairs and building services, with dimensions less than the required 6 metres.

These areas are considered unsuitable to support the growth of large, mature trees with large canopies, which could assist with screening the development as well as temperature reductions in urban environments. These DSZ areas also do not allow for the infiltration of rainwater to the water table or reduce stormwater runoff. The proposed DSZ areas do not meet the criteria of DSZ, being largely elevated planter boxes. The areas of DSZ which satisfy the ADG requirements are too small for effective tree planting.

- Greenfield site - There is no planning justification why the minimum required DSZ cannot be achieved on this site. As a large greenfield site, which is largely unconstrained, the amount of DSZ across the site should satisfy the design criteria of the ADG as a minimum, while the design guidance of the 15% should also be complied with given the large size of the site and its relatively unconstrained nature. This unconstrainted nature of the site is demonstrated in that there are not any directly adjoining uses to the site, the topography of the site is not an impediment to development, there are no significant easements which restrict development or the provision of a DSZ and there are no vehicle access constraints limiting DSZ potential. It is also considered that the DSZ requirements should have formed an integral part of the design approach on the site, which has been lengthy given the concept approval and the pre-lodgement meeting held between the applicant and the Council.

- Separate areas – The proposal provides four (4) separate areas of DSZ which are not contiguous, which further highlights the piecemeal approach to the planning of the deep soil areas on the site. This detracts from the ability to provide for large, mature trees which require larger areas for the structural root zone. Three of the four proposed DSZ areas which satisfy the 6 metre width dimension are located adjoining the basement and 1.8m high masonry walls for the front stairs to proposed apartments to Building D along Casuarina Way. Furthermore, one of these DSZ areas appears to comprise the proposed Bocce lawn as part of the COS area, which will not be able to provide large, mature planting given this area is to be cleared lawn.

  The fourth area of DSZ which meets the 6 metre minimum dimension adjoins the proposed relocated substation which is likely to require minimum separation distances to the substation in relation to large trees and vegetation. This detracts from the quality of this DSZ areas it is likely to consist of only grass or small plants. These small, separate areas of DSZ cannot achieve the tree growth and amenity outcomes required of DSZ areas.

- Areas too small for significant planting - It is noted that the proposal has attempted to include other areas on the site as DSZ, however, these areas do not achieve the minimum required dimension of 6 metres. If areas on the site which have a minimum dimension of more than 3 metres were included, an additional area of 496m² (total = 824m² - 11.2%) could be included. These areas, however, are too narrow to support mature tree growth, given the proposed basement is within 3 metres of these areas, which is insufficient for mature trees.

- Size and scale of the proposed development - Achieving a greater proportion of deep soil zone and landscaped areas is especially important given the overall size and scale of the building and the proposed density. Landscaping opportunities to grow and maintain large scale trees and vegetation around the site is required to offset the large heavy-set scale of the proposed building.

- Level 1 planting insufficient – The proposal provides for level 1 (ground floor) planting comprising lawn areas around the pool, boundary planting adjoining the street and entry paths, permeable paving within the entry areas to the individual apartments from the street frontages and planter boxes around the communal open space and communal paths within the site.

  While these areas provide additional planting across the site, they do not satisfy the DSZ role of allowing infiltration of rainwater to the water table, nor does it reduce stormwater runoff or promote healthy growth of large trees with large canopies given they are largely located above the basement car park footprint. These areas rely on soil profiles within elevated planter boxes, which limits the type of mature species that could be planted in these areas and does not contribute to residential amenity on the site. The insufficient deep soil zone particularly around the building's perimeter in the elevated planter boxes proposed across the site over the top of the basement car park should not be considered as a suitable substitute for the lack of DSZ areas.

- Exclusions not satisfied – The Design Guidance of the ADG states:

  Achieving the design criteria may not be possible on some sites including where:
  - *the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres)*
  - *there is 100% site coverage or non-residential uses at ground floor level*

  Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure.

  The subject site does not meet this criteria in that the location has sufficient space for the provision of a compliant DSZ as the site is not located in a central business district, is not a constrained site, is not located in a high density area or in a centre. There is also no proposed non-residential uses at the ground floor (or elsewhere on the site) and there is not 100% coverage proposed. Accordingly, there are no reasons why a compliant DSZ should not be provided on this site.

- Extensive size of basement - The basement level occupies a substantial proportion of the site with minimal remaining area for deep soil zones. A setback of between 1.5 to 1.7 metres is provided to the eastern and southern boundaries, while a 3 metre setback is provided to the north. There is slightly more of a setback to the western boundary of between 5 to 8 metres. A smaller basement would provide for greater and more genuine deep soil areas on the site, which has not been achieved. It is further noted that there is more car parking provided than is required and therefore the basement appears to be larger than is necessary for the proposal.

- Inconsistent with the maximum impervious surfaces - The proposal is also contrary to Design Control 2: Site Configuration of Chapter 2 of Section A1 of the TDCP 2008 which requires that a maximum impervious site area of 60% is achieved. The proposal

involves an impervious area of 84.63% which further demonstrates the lack of adequate impervious areas on the site.

As outlined above, it is considered that the proposed DSZ on the site is unsatisfactory and is not supported. This matter warrants refusal of the application.

Landscaping

The landscaping for the proposal is largely contained to the communal open space areas and the site frontages adjoining the basement (**Figure 37**). There are a number of concerns with this landscaping as outlined below (in addition to the lack of deep soil areas which is discussed above).

Figure 37: Proposed Landscaping *(Source: Laud ink Dwg DA-L-9001, August 2023)*

(a) Street trees - There are existing street trees along all three street frontages, as well as trees along the footpath in the drainage reserve to the south. The proposed landscaping regime heavily relies on this street tree planting outside of the site to provide screening and a landscape setting for the site.

The Landscape Plan indicates that new street trees comprising *Ficus macrocarpa var.Hillii* (Chinese Banyan) are proposed to frame the pedestrian entries, however, it is unclear if these are compensatory plantings or additional street trees. Council is generally not supportive of removing street trees and would not support an overall reduction in the number of street trees. It is noted that the Chinese Banyan tree is not included in the *Native Species Planting Guide* provided on Council's website and therefore they are not considered an appropriate species. It also appears that at least one (1) street tree is proposed to be removed for the driveway access in Habitat Drive, which is considered satisfactory.

(b) Extensive areas of podium planting - The proposal heavily relies for almost all of the landscaping on the site within extensive areas of podium planting (**Figure 38** – coloured areas) arising from the large area of basement proposed on the site. These areas vary in depth between 650mm (small area between Buildings B and C - light green), 1000mm (area to the south of Building A – dark blue) and 1500mm

(surrounding the pool and BBQ area between Buildings A and B - pink) deep podium areas. While these areas are capable of sustaining shrubs as well as small and medium trees, these areas do not assist with stormwater infiltration or provide for larger trees within the site.

Figure 38: Proposed Landscaping and Podium Planting (*Source: Laud ink Dwg DA-L-9031, August 2023*

(c) Lack of variety in proposed tree planting - The proposed tree planting is almost exclusively palm trees, while the remainder of the proposed landscaping comprises groundcovers and shrubs with minimal diversity in the layering or type of the landscaping. A greater variety of trees could assist with biodiversity in the area and a greater level of amenity. A greater variety in the layers in the landscaping regime would also assist in providing privacy throughout the site, particularly between the communal and private open space areas.

As outlined above, it is considered that the proposed landscaping for the site is unsatisfactory and is not supported. This matter warrants refusal of the application.

5.3 Proximity to Electrical Infrastructure

As outlined in Section 3 of this report, pursuant to Section 2.48(2) of the Transport & Infrastructure SEPP, before determining a development application, the consent authority must give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and take into consideration any response.

Council referred the original proposal and the amended plans to Essential Energy, with safety concerns being raised by Essential Energy given the proximity to their electrical infrastructure in both referral responses.

The Essential Energy comments dated 9 October 2023 for the amended plans stated:

> *The substation must meet the clearance requirements of AS2067: Substations and high voltage installations exceeding 1 kV a.c, consistent with Essential Energy's*

design requirements - 2.14.3 Substations & Switching Stations (Locations). As per AS2067, this type of development requires the substation to be a minimum of 7.5 metres from the nearest building (closest part) unless specific requirements are met e.g. 120/120/120 fire rating, a fire report provided stating why reductions in the distances in AS2067 should be reduced (note Essential Energy must approve the fire report). At present, the proposal does not meet the requirements of AS2067.

The proposal involves a building which is approximately 3 metres from the proposed relocated substation and is therefore unsatisfactory to the electricity supply authority (**Figure 39**). Accordingly, it is considered that the proposal is unsatisfactory having regard to Section 2.48(2)(b) of the Transport & Infrastructure SEPP. It is considered that the proposed proximity to electrical infrastructure for the proposal is unsatisfactory and is not supported. This matter warrants refusal of the application.

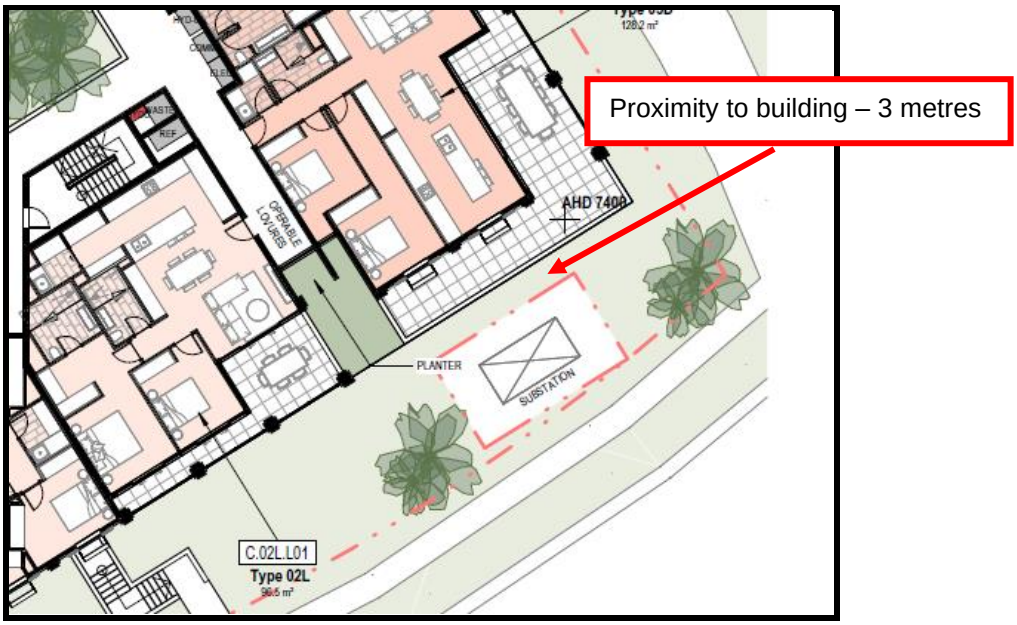

Figure 39: Proposed relocated substation and proximity to proposed building (*Source: Level 01 Plan, Conrad Gargett, August 2023*)

5.4 Natural Ventilation

Part 4B of the ADG provides objectives, design criteria and design guidance requirements for natural ventilation. The application states that 50 of the 79 proposed apartments achieve natural cross ventilation, which is 63.3% of the apartments thereby achieving the minimum 60% required by the design criteria in Part 4B-3 of the ADG.

However, it is noted that the 17 units proposed on Level 4 which have all been nominated to meet natural cross ventilation standards, 9 of those units rely on clerestory windows to achieve a form of cross ventilation which would not comply with the inlet and outlet window area proportions. As such, those 9 units are not deemed to be naturally cross ventilated which reduces the quantity of cross ventilated units to only 41 apartments out of 79 proposed apartments or 51.8%. Therefore the proposal does not satisfy the natural ventilation design criteria of the ADG.

The proposal is also considered to be inconsistent with the design guidance of Part 4B-1 in that depths of some of the habitable rooms do not support natural ventilation and the area of unobstructed window openings does not meet the requirements for at least 5% of the floor

area served. The proposed windows which are unsatisfactory or are absent for natural ventilation are contained in the following unit types:

- Type 3D – narrow, recessed window to the bedroom for a large awkward shaped room (Building C SW facing) (4 units);

- Internal rooms - There are 44 units where studies and/or unnamed rooms are proposed, which are habitable rooms and some of which are large enough for bedrooms, however, there are no windows provided to these rooms which is inconsistent with this clause including:

    - Building A - Types 3A, 2A, 2C, 2E, 2F-1, 2F-2, 2G, 4A;
    - Building B – Type 2H;
    - Building C – Types 2J, 2M, 2N, 2I and 4D.

Further design guidance is also not complied with including that light wells are not to be the primary air source for habitable rooms, which is evident for Unit type 3C (x 4 units) in Building C, which includes a bedroom which has a window opening to void/lightwell.

The proposal also heavily relies on fixed external aluminium screens to protect visual privacy due to the inadequate building separation which are likely to adversely impact on natural ventilation. This is a concern for the eastern portions of Building A (facing south towards Building B) comprising Unit type 2G and 4A (particularly for the western bedrooms) and Building C (facing north towards Building B) comprising Unit type 2I (particularly for the western bedrooms). This is contrary to the design guidance in Part 4B-1 which outlines that doors and openable windows maximise natural ventilation opportunities which are adjustable and flexible with large effective openable areas which is not achieved with the proposed fixed screens.

As a new development on a very large, unencumbered site, a much higher proportion of naturally ventilated units is expected. Reducing reliance on heating, ventilation and air conditioning systems within a subtropical climatic zone is a key principle of passive design which the scheme has largely failed to provide. This is considered to be unsatisfactory and has not been resolved, despite being raised in the RFI and provided opportunity to resolve prior to determination of this application. It is considered that the lack of adequate naturally cross ventilated apartments in the proposal is unsatisfactory and is not supported. This matter warrants refusal of the application.

5.5 Apartment Design and Layout

There are a number of concerns with the proposed apartment configurations and layout as outlined in Part 4D-1 and 4D-2 of the ADG. Objective 4D-1 requires that the layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.

The following concerns are raised which results in the proposal being inconsistent with this objective:

- There are 44 units where studies and/or unnamed rooms are proposed as internal rooms, which are habitable rooms and some of which are large enough for bedrooms, however, there are no windows provided to these rooms which is inconsistent with this clause including:

    - Building A - Types 3A, 2A, 2C, 2E, 2F-1, 2F-2, 2G, 4A (27 units total);

- Building B – Type 2H (x 2 units total); and
- Building C – Types 2J, 2M, 2N, 2I and 4D (15 units total).

It is also considered that this prevents compliance with the design criteria No 2 (Part 4D-1) that every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room and that daylight and air may not be borrowed from other rooms. It is also considered that these proposed apartments are also contrary to the design guidance that a window should be visible from any point in a habitable room.

- The Unit Type 3C in Building C (x 4 units) contains a bedroom window to the void area and it is unclear if sufficient light can be provided to these windows, particularly on the lower levels (also discussed in natural ventilation issue below).

- The room depth in open plan layouts (where the living, dining and kitchen are combined) for Unit Types 2A and 2B are 8 and 8.95m respectively from a window, which is unsatisfactory (total - 8 units).

- Unit Type 3C (Bldg C all floors) where the bedroom directly adjoins the lift core (contrary to Part 4H-1 in relation to acoustic privacy) is also unsatisfactory.

Given these concerns, it is considered that the proposal does not achieve the objectives, design criteria or the design guidance for the layout of rooms (Part 4D-1) and the Environmental performance of the apartments (Part 4D-2). It is considered that the inconsistencies with Part 4D and 4H of the ADG is unsatisfactory and is not supported. This matter warrants refusal of the application.

5.6 Building Separation

There are four (4) building forms proposed on the site over a common basement and therefore building separation within the site is an important consideration. It is noted that the amended plans did not provide dimensions between buildings and as such it is difficult to determine accurate separation distances, however, derived from scaled measurements the approximate distances are outlined in **Table 13**. Part 3F-1 of the ADG states that the required building separation distances on the site are to be combined (considered below as outlined on Page 62 & 63 of the ADG).

Table 13: Building Separation under the ADG

BUILDING	REQUIRED ADG (DESIGN CRITERIA OF PART 3F-1)	PROPOSED	COMPLY
Building A to Building B			
Up to 12m (4 storeys)	6m (hab) + 0m (blank) = 6m	7.8m	Yes
Level 4 (corridor window of Building B)	6m (hab) + 3m (non-hab) = 9m	9.805m	Yes
Building B to Building C			
Up to 12m (4 storeys)	6m (hab) + 0m (blank) = 6m	6.5m	Yes
Level 4 (corridor window of Building B)	6m (hab) + 3m (non-hab) = 9m	8.605m	**No**
Building C to Building D			
Up to 12m (4 storeys)	6m (hab/POS) + 0m (blank) = 6m	6.2m	Yes

Building B to Building D (across COS)			
Up to 12m (4 storeys)	6m (hab) + 6m (hab – gallery access) = 12m	20m	Yes
Building A to Building D			
Up to 12m (4 storeys)	6m (hab/POS) + 0m (blank) = 6m	6.4m	Yes

While the proposed buildings generally comply with the building separation requirements, the northern and southern elevations of both Buildings B and D comprise blank elevations as illustrated in **Figures 40** and **41**.

Figure 40: Proposed blank elevations - Building B

Figure 41: Proposed blank elevations - Building D

These blank elevations have been proposed to avoid the required building separation which would otherwise be required of 9 metres to 12 metres, depending on the room type. While the privacy concerns are mitigated by the blank walls, the proposed blank elevations raise the following concerns:

- The blank elevations of Building B are approximately 18m wide x 13m high which despite the inclusion of faux fluted arches for attempted articulation, this is a poor design outcome which adversely impacts on the visual outlook for proposed apartments in Buildings A and C. Similarly Building D comprises blank elevations which are approximately 15m wide x 7m high and would be featureless rendered and painted concrete block walls with similar adverse impacts to the outlook for proposed apartments in Buildings A and C.

- The lack of windows in the northern and southern elevations of Buildings B and D reduces the opportunity for natural ventilation and sunlight access for the proposed apartments within these buildings, particularly those at the northern end which could benefit from direct northern solar access into living and bedroom windows.

- The lack of windows is of particular concern given the Level 2 rumpus area for the proposed apartments in Building D will rely on borrowed light from adjoining rooms (it

is noted there are no skylights in the roof of Building D). There is also no natural light to the stairwell areas of Building D which could have otherwise benefitted from highlight windows.

- The eastern end of Building A facing south towards Building B and the eastern end of Building C facing north towards Building B contain fixed aluminum screens (it is noted that the level 4 screens are operable but the lower levels are not) (**Figures 42** & **43**). These proposed external screens restrict natural ventilation and outlook as well as solar access. Such measures appear to be proposed to mitigate the otherwise required building separation proposed on the site and are unacceptable.

- The proposed measures introduced to mitigate privacy impacts, including the proposed external screens and the lack of windows are contrary to Objective 3F-2 of the ADG in that the site and building design elements which increase privacy compromise access to light and air and do not balance outlook and views from habitable rooms and private open space.

Figure 42: Southern elevation of Building A facing Building B with fixed external screens (Plan

Figure 43: Northern elevation of Building C facing Building B with fixed external screens (Plan DA206, Conrad Gargett, August 2023)

- Maximum building length - Chapter 1 of Section A1 of the TDCP 2008 provides a maximum length of 35 metres for buildings. The proposal exceeds the maximum building length of 35 metres for proposed Buildings A, B and D:

- Grand Parade: Building A has an overall length to this frontage of 51.5m;
- Habitat Drive: Building B has an overall length to this frontage of 42.5m
- Casuarina Way: Building D has an overall length to this frontage of 43m,

The inadequate building separation exacerbates the bulk of these building lengths to the street which is unsatisfactory. Greater separation between the proposed building forms would provide opportunities for visual separation between the buildings which would provide an improved streetscape, particularly given the proximity to the town centre to the west of the site.

The preferred approach would be to increase the building separation which would enable insertion of windows to the northern and southern elevations of Buildings B and D and provide a greater level of amenity to the proposed apartments. It is considered that the inconsistencies with Part 3F of the ADG are unsatisfactory and are not supported. This matter warrants refusal of the application.

5.7 Privacy Impacts from Communal Open Space

The proposed communal open space ('COS') has been increased and provides a variety of areas for outdoor use by residents. However, this communal open space, being located in the central area of site, adjoins a large number of private open space areas of the proposed apartments. This is contrary to Objective 3F-2 of the ADG in that the communal open space, common areas and access paths are not separated from the private open space and windows to apartments, particularly habitable room windows (**Figure 44**).

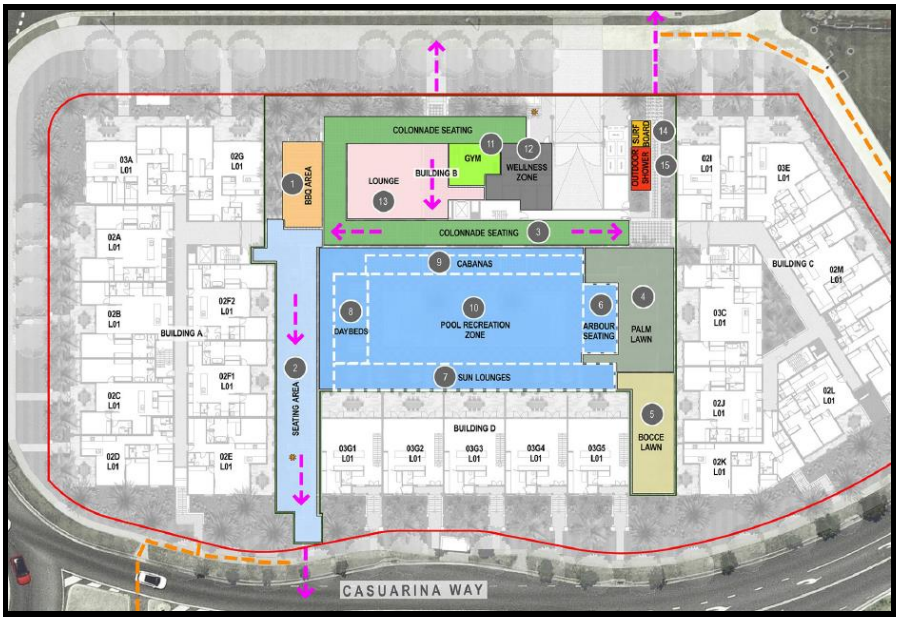

Figure 44: Proposed communal areas (*Source: Laud ink, DA-L-9021 Rev 6*)

It is also contrary to the Design Guidance in Part 4H-1 for acoustic privacy in that noise sources such as active communal open spaces and circulation areas should be located at least 3 metres away from bedrooms. Design Control 2 (site configuration) of Section A1 of the TDCP 2008 also requires that COS is not to be located such that solar access, privacy and outlook to dwellings are reduced. Privacy is reduced by the proposed COS, therefore the proposal does not achieve this design control of the DCP.

The following areas of proposed communal open space directly adjoin the private open space areas or habitable room windows of proposed apartments:

- The proposed entry path between Buildings B and C adjoins the bedroom and living room windows of Unit C.02I.L01;
- The proposed seating areas to the north of the pool directly adjoin terrace areas of the south facing ground level units of Building A (Units A.02E.L01, A.02F-1.L01 and A.02F-2.L01);
- The proposed BBQ terrace area between Buildings A and B adjoins the bedroom and living room windows of Unit A.02G.L01;
- The bocce lawn area directly adjoins the private open space of Units C.02J.L01 and C.02K.L01 and is approx. 1 metre higher; and
- The palm lawn directly adjoins the private open space of Unit C.03C.L01 and is approx. 1 metre higher.

There has also been limited consideration of the potential for privacy impacts between these areas and there are no cross sections to illustrate whether the proposed landscaping or level changes address these concerns. The landscape plan appears to indicate that palm trees are to be provided throughout the site, however, such species offer limited screening opportunities since there is limited foliage at the lower levels of these trees. The proposed communal areas are likely to adversely impact on the privacy of the proposed private open space areas of these proposed apartments, which is unsatisfactory. This matter warrants refusal of the application.

5.8 Streetscape and Front setback

Front setback

The proposal has been designed with Casuarina Way as the main street frontage. This frontage is the longest, is the most visible frontage of the site and has the highest traffic load of the three adjoining streets (notwithstanding all of the adjoining roads all have the same classification as a local road). For the site, this front boundary is curved along the Casuarina Way frontage, while the proposed basement and buildings have straight edges to the boundary.

The setback to Casuarina Way is generally 6 metres required by Clause B5.2.2(2)(a), with the following encroachments (**Figure 45**):

- Northwestern corner of Unit type 2D in Building A;
- The front 1 metre including the front balconies of two of the middle apartments in Building D;
- The roofline of Building D overhangs the lower levels increasing the front setback encroachment; and
- South-western corner of Unit type 2K in Building C.

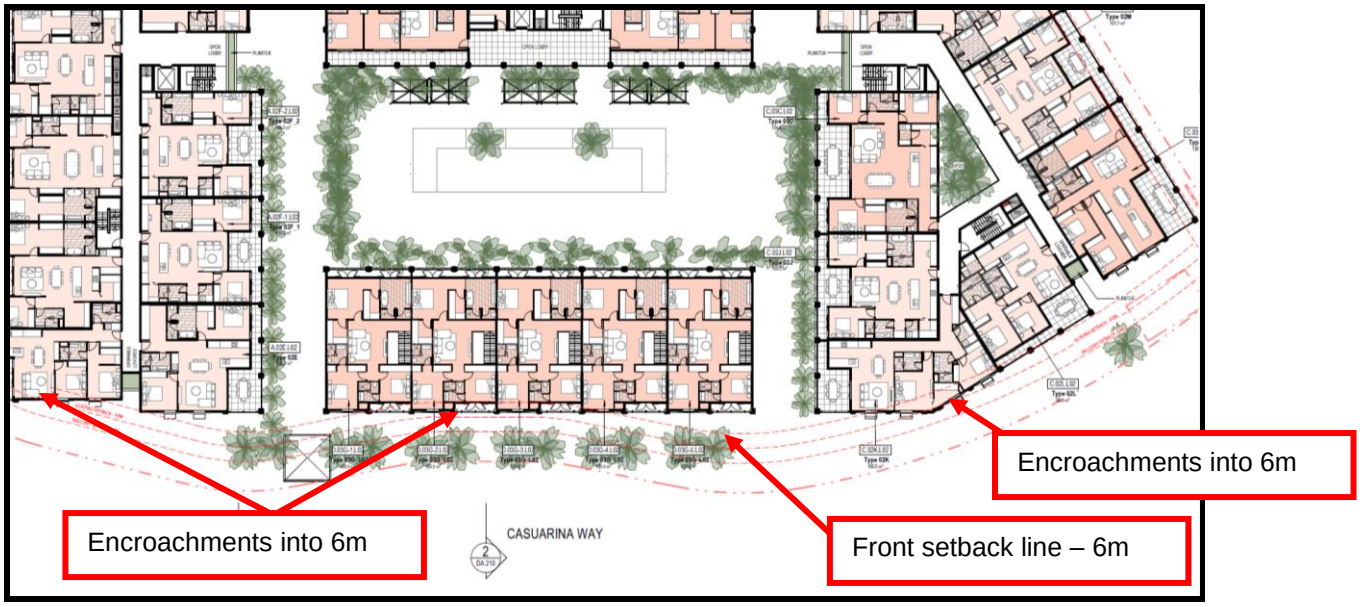

Figure 45: Casuarina Way Setback (*Source: Conrad Gargett, August 2023*)

Clause B5.2.2(2)(c) allows special design elements such as verandas, entrances and the like constructed of open design to be setback a minimum of 3 metres from the front street boundary. The proposed balcony edges for the apartments in Building D extend beyond the 6m setback, but behind the 3m setback line to the front Boundary. These minor sections of Building D which encroach into the front setback are considered to be satisfactory. The portions of Buildings A and C which encroach into the front setback are also only minor sections of these buildings, 'represent point encroachments' and are also considered to be satisfactory.

The proposed encroachment of the roofline of Building D which overhangs the lower levels increasing the front setback encroachment is considered to be unsatisfactory. This large, hipped roofline of Building D is considered to be overly bulky and visually dominating in the streetscape, which is exacerbated by the encroachment into the front setback and is unacceptable. The proposed roof of Building D is further discussed in the ADG assessment.

Entry to Building D and Retaining Walls

A further concern in relation to the front setback are the proposed 1.8 metre high masonry walls perpendicular to the street boundary adjoining the individual entries to the proposed apartments within Building D (**Figure 46**). These walls are proposed for all of the proposed apartments for Building D along this frontage and are likely to adversely impact on the streetscape and prevent landscaping opportunities for larger trees. The walls, combined with the large hipped roof and raised ground floor level, adversely impacts the streetscape which is unacceptable.

The objective of Part 3G-2 of the ADG in relation to pedestrian access and entries is for access, entries and pathways to be accessible and easy to identify. The design guidance includes that the design of ground floors and underground car parks minimise level changes along pathways and entries and that steps and ramps should be integrated into the overall building and landscape design.

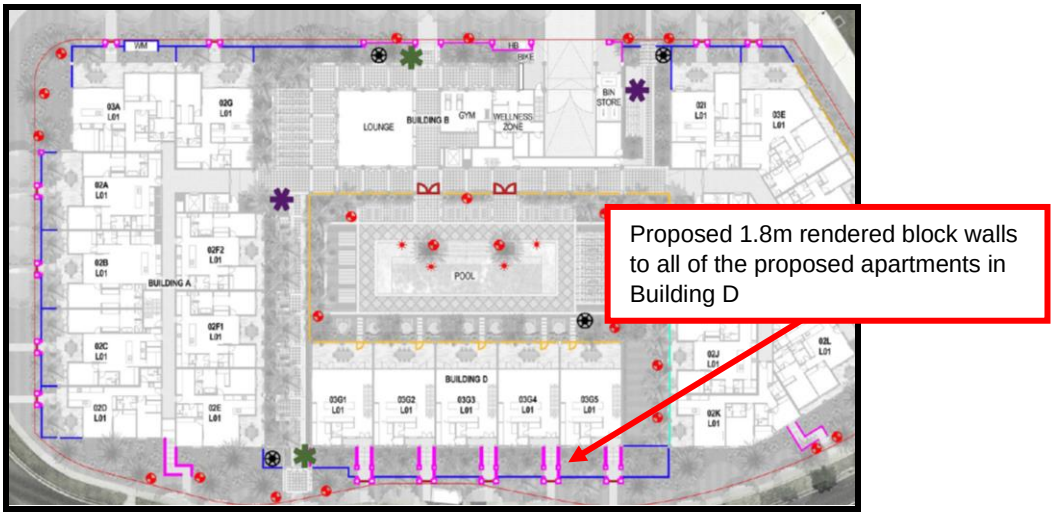

Figure 46: Fencing Plan (*Source: Laud ink, DA-L-9010 Rev 6*)

There is a level difference of approximately 1.5 metres between the footpath level at the existing bus stop along Casuarina Way and the ground floor of Building D which results in a large number of stairs and the 1.8 metre high rendered block retaining walls adjoining the stairs (**Figure 47**) perpendicular to the road alignment. This does not provide for steps which are integrated into the building design, with the large walls and stairs reducing the open vistas along the street. The level difference also reduces the adaptability of the proposed apartments in Building D, which require stairs to access from the street as well as from the basement garage which also includes the laundry. There are also stairs to the first floor. The proposed walls and stairs as well as the height of Building D above the street level is unsatisfactory.

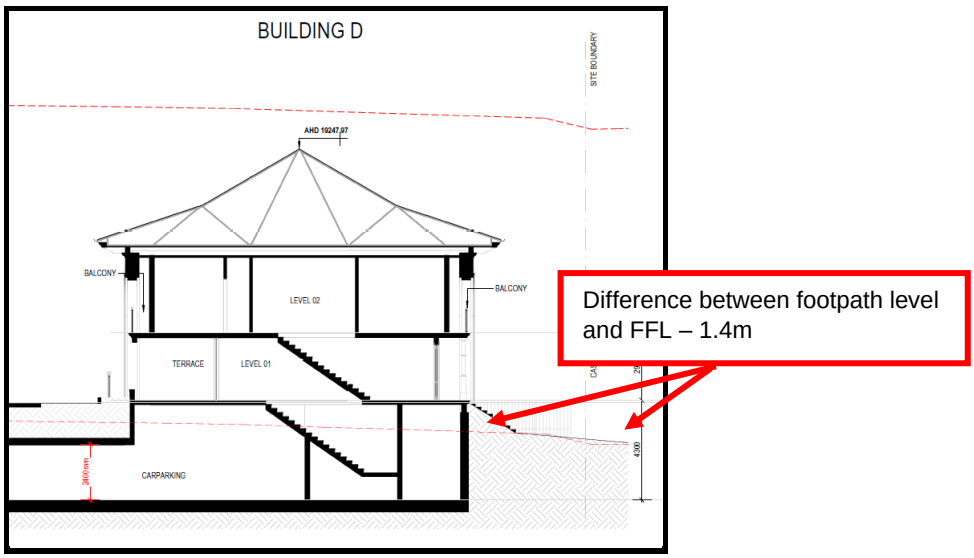

Figure 47: Proposed Building D height above the street *(Source: Conrad Gargett, August 2023*)

It is considered that the streetscape and front setback of components of Building D are unsatisfactory and are not supported. This matter warrants refusal of the application.

5.9 Bicycle parking & Bulk Waste Storage

As outlined in the TDCP 2008 assessment, there is a lack of bicycle parking for residents as well as a bulky waste storage area in the basement. Additional bicycle parking for residents and the bulky waste storage area could be provided in the basement, however, these features would require design changes in the basement which have not been provided in the amended plans. Therefore, while these matters are minor and can be readily accommodated on the site, the proposal as currently designed has not provided these components and therefore it is unsatisfactory.

6. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application cannot be supported for the reasons outlined in **Attachment A**.

The key issues of building design, lack of an adequate deep soil zone and landscaping, proximity to electrical infrastructure and the lack of adequate natural ventilation in multiple apartments warrant refusal of the application given the adverse impacts arising from these matters on the streetscape and amenity of the proposed development. The concerns with some of the proposed apartment design and layouts, the privacy measures proposed to mitigate the inadequate building separation, privacy impacts arising from the proximity of the communal open space areas to the proposed apartments and streetscape concerns arising from the front setback to Casuarina Way are further significant concerns that have not been resolved.

Concerns with bicycle parking and bulky waste storage, largely technical issues, have also not been adequately considered or resolved by the proposal.

It is considered that the key issues as outlined in Section 5 have not been resolved satisfactorily through amendments to the proposal and therefore the development application is considered to be unsatisfactory.

7. RECOMMENDATION

THAT pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act, 1979*, the Northern Regional Planning Panel refuse development consent to Development Application DA 22/0408 for the construction of residential flat buildings comprising 79 apartments consisting of 3 x 4 storey buildings and 1 x 3 storey building over a common basement, earthworks, landscaping and associated services at Lot 46 DP 1264557, No 6 Grand Parade Casuarina, subject to the reasons for refusal in **Attachment A**.

The following attachments are provided:

- **Attachment A:** Reasons for refusal
- **Attachment B:** Apartment Design Guide Compliance Table
- **Attachment C**: DCP Compliance tables

Attachment A: Refusal Reasons

1. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the proposal does not comply with the deep soil zone, natural ventilation and apartment layout design criteria or the objectives of Parts 3E, 4B and 4D respectively of the *Apartment Design Guide*. Pursuant to Clause 30(2)(b) of *State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development*, consent cannot be granted as the proposal does not demonstrate that adequate regard has been given to the objectives specified in the Apartment Design Guide for deep soil zone, natural ventilation and apartment layout (windows to habitable rooms and room depths) design criteria.

2. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the design quality of the proposal when evaluated in accordance with the design quality principles is unacceptable, contrary to Clause 28(2)(b) of *State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development* ('SEPP 65') and adequate regard has not been demonstrated to the design quality principles contrary to Clause 30(2)(a) of SEPP 65. In particular, the proposal is inconsistent with the following design quality principles:

    (a) Principle 1: Context and neighbourhood character as the proposed development does not respond to its context given the inconsistencies with the building design in relation to the prevailing character of the area and therefore does not respond to the built features of the area. The proposed facades of the building are unsatisfactory and exacerbate the bulk and scale of the proposed building forms.

    (b) Principle 2: Built form and scale as the proposed building form is inappropriate for the site as the faux heritage aesthetic is out of character with the area and the heritage detailing components adds bulk and scale to the development. There is also a lack of variety in the materials, with the rendered concrete a dominating presence on the site. The proposed built form does not contribute to the character of the streetscape as the design is incompatible with existing development in the area and the building bulk and massing are not acceptable in the context of the site.

    (c) Principle 4: Sustainability as the proposal does not provide adequate natural cross ventilation to a large number of proposed apartments, which increases the reliance on heating and cooling systems. There is also a lack of skylights provided in the roof and there are also no sustainability measures beyond those required under BASIX for such a large development, including solar panels.

    (d) Principle 5: Landscaping as the proposal provides an inadequate amount of deep soil zone and the proposed landscape design is unsatisfactory due to an over-reliance on palm trees and podium planting, with a lack of depth in the layers to the landscaping.

    (e) Principle 6: Amenity as numerous apartments do not achieve sufficient amenity arising from some of the units including internal rooms without windows, units with narrow windows, numerous apartments lacking natural cross ventilation, privacy concerns from the communal open space and associated acoustic

concerns. Numerous apartments also have compromised amenity arising from the measures to satisfy the required building separation within the site, including the provision of blank walls and external fixed screening.

(f) Principle 9: Aesthetics in that the architectural expression of the proposed development is unsatisfactory as the proposed architectural faux heritage stylistic appearance and components accentuates the buildings overall bulk and scale and is incompatible with the existing character of the area. The proposed built form also does not have good proportions or a balanced composition of elements and has a lack of variety of materials and colours.

Consent must not be granted as the proposal does not demonstrate that adequate regard has been given to the design quality principles.

3. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it has not adequately addressed the potential safety risks arising from the proposed development as Essential Energy consider that safe distances will not be maintained by the development, contrary to Section 2.48(2)(b) of *State Environmental Planning Policy (Transport and Infrastructure*) 2021. Therefore, the proposed development is unsatisfactory.

4. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as there are numerous inconsistencies with the *Apartment Design Guide* pursuant to Clause 28(2)(c) of *State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development* ('SEPP 65') which result in an unsatisfactory impact to amenity, adjoining properties and the streetscape, including the following:

(a) Part 3E: Deep Soil Zones in that the proposal involves a deep soil zone comprising 328m² with a minimum dimension of 6m, which represents 4.46% of the site, a shortfall of 186.78m² in accordance with the design criteria and a 775.1m² shortfall in relation to the Design Guidance of 15% of the site area.

(b) Part 3F: Visual Privacy in that the proposal is contrary to the objectives as the required building separation has only been achieved through the provision of blank walls and external fixed screening which reduces the amenity of the proposed apartments. Some apartments are also overlooked from the proposed communal areas resulting in privacy concerns.

(c) Part 3G: Pedestrian access and entries in that Building D is located 1.5 metres above the street level, which results in a large number of stairs and retaining walls to the street. This does not provide for the design of ground floors to minimise level changes along pathways and entries or the provision of steps which are integrated into the building design and therefore there is a poor relationship between the entry areas and the street.

(d) Part 4B: Natural Ventilation in that proposal does not satisfy the design criteria of Part 4B-3 as only 51.8% of the proposed apartments are naturally cross ventilated. The proposal is also inconsistent with the design guidance of Part 4B-1 in that depths of some of the habitable rooms do not support natural ventilation, there are some windows which do not satisfy the area of unobstructed openings and there are some habitable rooms without a window to an external wall (internal rooms). There are also some apartments which rely on light wells as the primary air source for habitable rooms and there are a

number of apartments which rely on fixed external aluminium screens to protect visual privacy due to the inadequate building separation which will adversely impact on natural ventilation.

(e) Part 4D: Apartment size and layout in that internal habitable rooms without windows are proposed and some apartments do not achieve the design guidance for distance to windows (room depths). Some apartments also rely on small, narrow windows to achieve compliance with the requirement for living areas and bedrooms to be located on the external face of the building, while other units have windows to void areas. The proposal is contrary to Objectives 4D-1 and 4D-2, which require room layouts which are functional, well organised and provide a high standard of amenity and that the environmental performance of the apartments is maximised.

(f) Part 4F: Common circulation space in that the proposal is inconsistent with the design guidance of Part 4F-1 as there are a number of living and bedroom windows which open directly onto common circulation spaces, including communal open spaces areas and void/circulation areas.

(g) Part 4H: Acoustic privacy in that there are several apartments located in close proximity to noise sources such as circulation and communal areas and bedrooms which directly adjoins the lift core.

(h) Part 4M: Facades in that the proposed building facades are unsatisfactory given the faux heritage stylistic appearance which accentuates the buildings overall bulk and scale and is inconsistent with the contemporary Australian coastal aesthetic which is emerging in the area. The proposal is also contrary to the design guidance as the design solutions for the front building facades such as a composition of varied building elements, a defined base, middle and top of buildings and changes in texture, material and colour to modify the prominence of elements has not been provided. The bulk and massing of the proposed buildings are exacerbated by the three-storey high (fluted) arches and heavy reliance on rendered painted concrete blockwork.

(i) Part 4N: Roof Design in that the proposed roof design adds significant bulk and scale to the development and is inconsistent with the prevailing character of the area which generally comprises sloping, lightweight metal roofs. The proposed roof for Building D is also out of character with the area and is excessive in its scale and encroaches into the front setback to Casuarina Way, adding unnecessary bulk and height to the development. The proposed roof treatments are not integrated into the building design and do not positively respond to the street.

5. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with Section B5.2.2(2)(a) of the *Tweed Development Control Plan 2008* in that the proposed front setback of the roof of Building D and the front walls adjoining the stairs encroach into the 6 metres front setback and result in an adverse impact on the streetscape. The proposed encroachment of the roofline of Building D which overhangs the lower levels is bulky and visually dominating in the streetscape and the proposed 1.8 metre high masonry walls perpendicular to the street boundary adjoining the individual entries to the proposed apartments within Building D prevent landscaping opportunities for larger trees and reduce the open vistas along the street.

6. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with the Tweed Development Control Plan 2008 in that:

   (a) A dedicated room or caged area for the temporary storage of bulky waste items pursuant to Section A15, Part D Clause 2.4(v) has not been provided;

   (b) Adequate resident bicycle spaces have not been provided in accordance with Section A2, Clause A2.3 (Table 2);

   (c) The proposed impervious site coverage exceeds the maximum of 60% of the site area by 1,811.85m² and is inconsistent with Section A1, Part C (Design Control 2: Site Configuration - Impermeable Site Area (g)) and the objectives of the control, which includes to allow for stormwater infiltration;

   (d) Deep soil zones in accordance with Section A1, Part C (Design Control 2: Site Configuration – deep soil areas (a), (b) and (c)) have not been provided;

   (e) The building lengths exceed the maximum of 35 metres pursuant to Section A1, Part C (Chapter 1: building Types) which is exacerbated by the lack of adequate building separation; and

   (f) The location of the proposed communal open space adjoining numerous areas of private open space for the proposed apartments is contrary to Design Control 2 (site configuration – communal open space) of Section A1 which requires that communal open space is not to be located such that privacy and outlook to dwellings are reduced.

7. The proposed development is considered unacceptable pursuant to the provisions of Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979* as the proposal is not in the public interest as it is inconsistent with numerous planning controls in relation to the adverse impacts on the streetscape and will negatively affect the character and nature of the neighbourhood.

Attachment B: Apartment Design Guide Compliance Table

ADG - DESIGN CRITERIA	PROPOSAL	COMPLY
Site Analysis (3A)		
Development proposals need to illustrate that design decisions are based on careful analysis of the site conditions and relationship to the surrounding context.	A site analysis has been prepared.	✓
Each element in the Site Analysis Checklist should be addressed.	The site analysis has been considered in the proposed design.	✓
Orientation (3B)		
3B-1: Building types and layouts respond to the streetscape and site while optimising solar access within the development. **Design Guidance** • Buildings along the street frontage define the street, by facing it and incorporating direct access from the street.	The proposed development is orientated towards the street frontages and there are several direct pedestrian entry points to the site from the street.	✓
• Where the street frontage is to the east or west, rear buildings should be orientated to the north.	The proposal is orientated to a number of different aspects due to the site configuration on multiple street frontages.	✓
• Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east and west.	Refer above	✓
3B-2: Overshadowing of neighbouring properties is minimised during mid-winter. **Design Guidance** • Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access.	Overshadowing of adjoining properties is minimal with no overshadowing to the properties to the east at 5, 7 and 9 Habitat Drive.	✓
• Solar access to living rooms, balconies and private open spaces of neighbours should be considered.	Satisfactory	✓
• Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%.	Satisfactory	✓
• If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy.	Satisfactory	✓
	Satisfactory	✓

• Overshadowing should be minimised to the south or downhill by increased upper level setbacks • It is optimal to orientate buildings at 90 degrees to the boundary with neighbouring properties to minimise overshadowing and privacy impacts, particularly where minimum setbacks are used and where buildings are higher than the adjoining development.	Satisfactory	✓
• A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings	Satisfactory	✓
Public Domain Interface (3C)		
3C-1: Transition between private and public domain is achieved without compromising safety and security. • Terraces, balconies and courtyard apartments should have direct street entry, where appropriate.	The proposed ground floor units have direct, individual entries provided from the street with the exception of 2 apartments in Building C along Casuarina Way in the southwest corner of the site at the site's lowest point.	✓
• Changes in level between private terraces, front gardens and dwelling entries above the street level provide surveillance and improve visual privacy for ground level dwellings	The proposed front terrace and entries to the ground floor apartments are separated from the street by fencing and landscaping which is satisfactory.	✓
• Upper level balconies and windows should overlook the public domain.	The upper level balconies and windows overlook the street and entry areas.	✓
• Front fences and walls along street frontages should use visually permeable materials and treatments. The height of solid fences or walls should be limited to 1m.	A 1500mm high 2 rail picket style fence is proposed around the site, which will incorporate landscaping on both sides. There is a small portion of the Habitat Drive frontage which will include an 1800mm high rendered block wall for the main entry to the site and communal area, which is satisfactory. The entry stairs to the individual apartments to Building D and the basement fire stairs will also have these walls, which is unsatisfactory (discussed in report).	✓
• Length of solid walls should be limited along street frontages.	Solid walls are only proposed adjoining fire and access stairs in limited areas of the site as well as a small portion of wall to the Habitat Drive frontage for the main entry to the site and communal area.	✓
• Opportunities should be provided for casual interaction between residents and the public domain. Design solutions may include seating at building entries, near letter boxes and in private courtyards adjacent to streets.	There are opportunities for casual surveillance of the street from ground level units as well as the main entry areas. The communal areas on the ground floor of Building B allow for casual surveillance of the footpath and entry area to the site.	✓ ✓

• In developments with multiple buildings and/or entries, pedestrian entries and spaces associated with individual buildings/entries should be differentiated to improve legibility for residents, using a number of the following design solutions: - architectural detailing, changes in materials, plant species, colours. • Opportunities for people to be concealed should be minimised	Directional signage as well as wayfinding signage is proposed at the entry points to the proposal. There is a good level of casual surveillance of the public domain interface for the site.	✓
3C-2: Amenity of the public domain is retained and enhanced.		
• Planting softens the edges of any raised terraces to the street, for example above sub-basement car parking.	The perimeter of the site comprises landscaping and pedestrian entry points.	✓
• Mail boxes should be located in lobbies, perpendicular to the street alignment or integrated into front fences where individual street entries are provided.	Mail boxes are proposed adjoining the main access point and the entry to the communal area along Habitat Drive.	✓
• The visual prominence of underground car park vents should be minimised and located at a low level where possible	Services have been integrated into the building and landscaping design of the site. Car park exhausts are shown venting up through the building to the roof of Building A and adjoining the bank wall to Building D, which is satisfactory.	✓
• Substations, pump rooms, garbage storage areas and other service requirements should be located in basement car parks or out of view.	Services are generally provided in the basement with a revised location for the bins at street level prior to collection being satisfactory. The substation is to be relocated, which is satisfactory.	✓
• Ramping for accessibility should be minimised by building entry location and setting ground floor levels in relation to footpath levels	A ramp is proposed from Casuarina Way to the entry between Buildings A and D with a 1:20 slope which is acceptable. The remaining entry points are at street level.	✓
• Durable, graffiti resistant and easily cleanable materials should be used.	Satisfactory.	✓
• Where development adjoins public parks, open space or bushland, the design positively addresses this interface and uses a number of the following design solutions: - street access, pedestrian paths and building entries which are clearly defined - paths, low fences and planting that clearly delineate between communal/private open space and the adjoining public open space - minimal use of blank walls, fences and ground level parking	The proposal adjoins a drainage reserve along the southern boundary, with the proposed development addressing this boundary with private terrace areas and landscaping.	✓
• On sloping sites protrusion of car parking above ground level should be minimised by using split levels to step underground car parking	The proposed basement is essentially underground, with some protrusion for Building C along the southern (drainage easement) boundary and Building D along	✓

	Casuarina Way. These areas are sufficiently landscaped to reduce impacts to the street.	
Communal and Public Open Space (3D)		
3D-1: An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.		
• **Communal open space has a minimum area equal to 25% of the site (1,838.5m²).**	The proposed development provides communal open space ('COS'): • 1,947m² (26.2% of site) external area comprising pool, seating areas, bocce lawn, BBQ area, surfboard store and outdoor showers • 269m² (internal areas comprising lounge areas, fitness room with sauna, spa and amenities) • Total – 2,216m² (30.1%)	✓
• **Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).**	The COS receives the required solar access from 11am until 2pm in mid-winter, achieving technical compliance.	✓
Design Guidance		
• Communal open space should be consolidated into a well-designed, easily identified and usable area.	Achieved.	✓
• Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions.	Achieved.	✓
• Communal open space should be co-located with deep soil areas.	The common open space is not co-located with deep soil areas.	**No**
• Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies.	Achieved.	✓
• Located on a podium or roof if it can't be located on ground level.	Located on the ground floor.	✓
3D-2: Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting		
Design Guidance		
• Facilities are provided within communal open spaces and common spaces for a range of age groups, incorporating some of the following elements: – seating for individuals or groups – barbecue areas play equipment or play areas. – swimming pools, gyms, tennis courts or common rooms	The COS now provides different areas for a variety of uses – active (pool), passive (seating), bocce lawn, BBQ area as well as indoor areas.	✓
• The location of facilities responds to microclimate and site conditions with access to	There is shade available during summer and there is adequate sunlight during midwinter.	✓

<table>
<tr><td>sun in winter, shade in summer and shelter from strong winds and down drafts

• Visual impacts of services should be minimised, including location of ventilation duct outlets from basement car parks, electrical substations and detention tanks.</td><td>The area will also be protected from wind being located in the central portion of the site.

Integrated into building design.</td><td>✓</td></tr>
<tr><td>3D-3: Communal open space is designed to maximise safety.

Design Guidance
• Communal open space and the public domain should be readily visible from habitable rooms and private open space areas while maintaining visual privacy.

• Communal open space should be well lit</td><td>The common area is overlooked by the proposed units.

Lighting is provided on the landscape plan.</td><td></td></tr>
<tr><td>Deep Soil Zones (3E)</td><td></td><td></td></tr>
<tr><td>3E-1: Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality

• Deep soil zones are to meet the following minimum requirements:

<table>
<tr><th>Site Area</th><th>Minimum Dimension</th><th>Deep Soil Zone (% of site area)</th></tr>
<tr><td>650m² to 1,500m²</td><td>3m</td><td rowspan="2">7%</td></tr>
<tr><td>Greater than 1,500m²</td><td>6m</td></tr>
</table>

Design Guidance
• On some sites it may be possible to provide larger deep soil zones, depending on the site area and context:
- 10% of the site as deep soil on sites with an area of 650m² - 1,500m²
- 15% of the site as deep soil on sites greater than 1,500m²

• Deep soil zones should be located to retain existing significant trees and to allow for the development of healthy root systems, providing anchorage and stability for mature trees. Design solutions may include:

- basement and sub-basement car park design that is consolidated beneath building footprints
- use of increased front and side setbacks
- adequate clearance around trees to ensure long term health</td><td>Required DSZ (min 6m dimension) = 7% of site = 514.78m².

DSZ provided with a minimum dimension of 6m = 328m² (4.46%), resulting in a shortfall of 186.78m².

(if areas on the site which have a minimum dimension of 3m x 3m+ = 496m² (total = 824m² - 11.2%).

15% of the site (1,103.1m²) as deep soil area has not been provided.

There are no existing significant trees on the site.</td><td>No

No

N/A</td></tr>
</table>

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<tr><td>

- co-location with other deep soil areas on adjacent sites to create larger contiguous areas of deep soil

- Achieving the design criteria may not be possible on some sites including where:
  - the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres)
  - there is 100% site coverage or non-residential uses at ground floor level

Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure

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The site does not meet any of this criteria to warrant the non-compliant DSZ on the site and therefore the required deep soil area should be provided for the proposal.

</td><td>

No

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<tr><td colspan="3">Visual Privacy (3F)</td></tr>
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3F-1: Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.

- **Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:**

Building Height	Habitable Rooms and Balconies	Non-habitable rooms
Up to 12m (4 storeys)	6m	3m
12m – 25m (5-8 storeys)	9m	4.5m
Over 25m (9+ storeys)	12m	6m

- **NOTE: Separation distances between buildings on the same site should <u>combine required building</u> separations depending on the type of room (see figure 3F.2)**

- **Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.**

Design Guidance

- Generally, one step in the built form as the height increases due to building separations is desirable. Additional steps should be careful not to cause a 'ziggurat' appearance.

- New development should be located and oriented to maximise visual privacy between

</td><td>

The site is adjoined by roads and a drainage reserve on all sides and therefore there are no separation requirements external to the site.

The required building separation distances on the site are considered in the key issues section of the report. Generally complies.

Noted in calculations.

Satisfactory.

Generally satisfactory.

</td><td>

N/A

✓

✓

✓

✓

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buildings on site and for neighbouring buildings. Design solutions include: - site layout and building orientation to minimise privacy impacts (see Part 3B) - on sloping sites, apartments on different levels have appropriate visual separation distances (see figure 3F.4)		
• Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping (figure 3F.5).	Not required in this case as the adjoining land to the east and south are also in the R1 zone.	N/A
• Direct lines of sight should be avoided for windows and balconies across corners.	Satisfactory	✓
• No separation is required between blank walls.	Noted above, however, this is only for blank walls to other blank walls (refer to Figure 3F.2).	Refer above
3F-2: Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space. **Design Guidance**		
• Communal open space, common areas and access paths should be separated from private open space and windows to apartments, particularly habitable room windows.	The following areas of COS directly adjoining private open space areas of proposed apartments: • proposed entry path between Buildings B and C adjoins the bedroom window of C.02I.L01 • proposed seating areas to the north of the pool directly adjoin terrace areas of the south facing ground level units of Building A; • proposed BBQ terrace areas between Buildings A and B adjoins the bedroom window of A.02G.L01; • the bocce lawn area directly adjoins the private open space of Units C.02J.L01 and C.02K.L01 and is approx. 1 metre higher; • the palm lawn directly adjoins the private open space of Unit C.03C.L01 and is approx. 1 metre higher. The external, fixed screens on Buildings A and C and the lack of windows for the northern and southern ends of Buildings B and D reduce outlook and views as well as light and ventilation, contrary to this objective.	**No**
• Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Kitchens and bathrooms are generally located adjoining the circulation areas.	✓

• Balconies and private terraces should be located in front of living rooms to increase internal privacy.	Satisfactory.	✓
• Windows should be offset from the windows of adjacent buildings	Generally satisfactory.	✓
• Recessed balconies and/or vertical fins should be used between adjacent balconies	Blade walls generally separate balconies.	✓
Pedestrian Access and Entries (3G)		
3G-1: Building entries and pedestrian access connects to and addresses the public domain. **Design Guidance**		
• Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge.	Multiple entries including individual ground floor entries are provided, which are clearly identifiable and assist in activating the street edge.	✓
• Entry locations relate to the street and subdivision pattern and the existing pedestrian network.	Building entry areas are clearly visible from the street.	✓
• Building entries should be clearly identifiable and communal entries should be clearly distinguishable from private entries.	There are 3 main entry points provided, with individual access points also provided for ground floor apartments.	✓
• Where street frontage is limited and multiple buildings are located on the site, a primary street address should be provided with clear sight lines and pathways to secondary building entries	There are 2 entry points to Habitat Drive and one to Casuarina Way as well as individual entries to Grand Parade. The main entry is from Habitat Drive where the mailboxes and vehicle access are provided, which is satisfactory.	✓
3G-2: Access, entries and pathways are accessible and easy to identify **Design Guidance**		
• Building access areas including lift lobbies, stairwells and hallways should be clearly visible from the public domain and communal spaces.	The lift lobbies and main entry points to the buildings can be viewed from the communal areas which is satisfactory.	✓
• The design of ground floors and underground car parks minimise level changes along pathways and entries.	The proposed ground floor (referred to as Level 1) for Buildings A, B and C is generally at street level with the basement located underground. There is a ramp for access from Casuarina Way. However, the height of Building D above the street level is unsatisfactory as outlined in the key issues section of the report.	**No**
• Steps and ramps should be integrated into the overall building and landscape design.	There is a level difference of approximately 1.5 metres between the footpath level (bus stop) and the ground floor of Building D which results in a large number of stairs and retaining walls adjoining the stairs. This does not provide for steps which are integrated into the building design.	**No**

• For large developments 'way finding' maps should be provided to assist visitors and residents (see figure 4T.3).	Provided	✓
• For large developments electronic access and audio/video intercom should be provided to manage access	CCTV is proposed and the basement is secured with an intercom system. The visitor parking area is separated from the residential parking.	✓
3G-3: Large sites provide pedestrian links for access to streets and connection to destinations	This is not required as there are existing pedestrian paths in the area including the pathway adjoining the southern boundary of the site.	✓
Vehicle Access (3H)		
3H-1: Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes		
• Car park access should be integrated with the building's overall facade.	The proposed basement access is integrated into the building's overall façade. An intercom is proposed for visitors, with visitor parking separated from residential parking by roller doors and walls within the basement.	✓
• Car park entries should be located behind the building line	Complies	✓
• Vehicle entries should be located at the lowest point of the site minimising ramp lengths, excavation and impacts on the building form and layout.	The basement is proposed at the lowest point of the site.	✓
• Car park entry and access should be located on secondary streets or lanes where available.	The proposed access point is located on the secondary street of Habitat Drive.	✓
• Access point locations should avoid headlight glare to habitable rooms.	There are no impacts to the proposed apartments as there are communal areas only on the ground floor of Building B where the vehicle access is proposed. The potential impact to the existing residential development opposite the site along Habitat Drive from the glare of headlights into residents has not been adequately addressed Council's Environmental Health Officer has reviewed the proposal and concluded that the proposed driveway for the site is primarily in line with the rear and side of 9 Habitat Drive opposite the site which is the single-storey garage and outdoor entertainment area with solid boundary walls. The design and layout of 9 Habitat Drive includes protection from development of the subject site with minimal windows to the west and the inclusion of screening and louvers. There are opportunities for individual neighbouring sites to provide additional protection from the impacts of lighting where required. No	✓

	objections were raised by the health referral to the potential lighting impact.	
• Adequate separation distances should be provided between vehicle entries and street intersections.	Adequate separation is provided between the vehicle entries and the intersection of Habitat Drive and Grand Parade.	✓
• The width and number of vehicle access points should be limited to the minimum	There is only one access point proposed.	✓
• Garbage collection, loading and servicing areas are screened.	A proposed bin storage area is proposed adjoining the vehicle entry which is screened from the street.	✓
• Clear sight lines should be provided at pedestrian and vehicle crossings.	Complies	✓
• Pedestrian and vehicle access should be separated and distinguishable. Design solutions may include changes in surface materials, level changes, the use of landscaping for separation	Complies	✓
Bicycle and car parking (3J)		
3J-1: Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.		
Design Criteria 1. For development in the following locations: • on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or	The site is outside the Sydney metro area.	N/A
• on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre	The site is not located in a nominated regional centre.	N/A
the minimum car parking requirement for residents and visitors is set out in the *Guide to Traffic Generating Developments*, or the car parking requirement prescribed by the relevant council, whichever is less	This does not apply to the site. Refer to DCP assessment.	N/A
The car parking needs for a development must be provided off street		
Design Guidance		
• Where a car share scheme operates locally, provide car share parking spaces within the development. Car share spaces, when provided, should be on site.	Two (2) Electric vehicle charging spaces provided as visitor spaces.	✓
• Where less car parking is provided in a development, council should not provide on street resident parking permits.	Refer to DCP assessment.	N/A
3J-2: Parking and facilities are provided for other modes of transport.		

Design Guidance • Conveniently located and sufficient numbers of parking spaces should be provided for motorbikes and scooters.	There are no motorbike spaces proposed.	N/A
• Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas.	Bicycle parking is provided in the basement for residents and at ground level for visitors.	✓
• Conveniently located charging stations are provided for electric vehicles, where desirable.	Provided	✓
3J-3: Car park design and access is safe and secure. **Design Guidance** • Supporting facilities within car parks, including garbage, plant and switch rooms, storage areas and car wash bays can be accessed without crossing car parking spaces.	Waste areas near the lifts which is satisfactory for Buildings A, B and C, with the path of travel to the waste storage areas for Building D is improved with access to either bin rom for building A or C achievable.	✓
• Direct, clearly visible and well-lit access should be provided into common circulation areas.	Provided	✓
• A clearly defined and visible lobby or waiting area should be provided to lifts and stairs.	The basement is now more regularly shaped allowing for improved pedestrian access throughout the basement.	✓
• For larger car parks, safe pedestrian access should be clearly defined and circulation areas have good lighting, colour, line marking and/or bollards	Refer above	✓
3J-4: Visual and environmental impacts of underground car parking are minimised. **Design Guidance** • Excavation should be minimised through efficient car park layouts and ramp design	The proposed excavation is satisfactory.	✓
• Car parking layout should be well organised, using a logical, efficient structural grid and double loaded aisles.	Access to the lifts for the car spaces in the north-west corner of the basement has been improved.	✓
• Protrusion of car parks should not exceed 1m above ground level. Design solutions may include stepping car park levels or using split levels on sloping sites.	The proposed basement level does not protrude more than 1m above ground level.	✓
• Natural ventilation should be provided to basement and sub-basement car parking areas.	Ventilation is provided.	✓
• Ventilation grills or screening devices for car parking openings should be integrated into the facade and landscape design.	satisfactory	✓
3J-5: Visual and environmental impacts of on-grade car parking are minimised.	Not proposed	N/A

3J-6: Visual and environmental impacts of above ground enclosed car parking are minimised	Not proposed	N/A
Part 4: Designing the Building		
Solar Access and Daylight (4A)		
4A-1: To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space. • **Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.**	Not applicable to the site.	N/A
• **In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter**	56 of 79 ADG units (70.8%) of units achieve the 3 hours of solar access.	✓
• **A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter (max 11.1 units).**	Complies (urban design referral)	✓
Design Guidance • The design maximises north aspect and the number of single aspect south facing apartments is minimised.	Satisfactory (urban design referral).	✓
• Single aspect, single storey apartments should have a northerly or easterly aspect.	Satisfactory (urban design referral) .	✓
• Living areas are best located to the north and service areas to the south and west of apartments	Achieved	✓
• To optimise the direct sunlight to habitable rooms and balconies a number of the following design features are used: - dual aspect apartments - shallow apartment layouts - two storey and mezzanine level apartments - bay windows	Some of these design features have been included.	✓
• To maximise the benefit to residents of direct sunlight within living rooms and private open spaces, a minimum of 1m² of direct sunlight, measured at 1m above floor level, is achieved for at least 15 minutes	Achieved	✓
• Achieving the design criteria may not be possible on some sites. This includes: – where greater residential amenity can be achieved along a busy road or rail line by orientating the living rooms away from the noise source	Not applicable	N/A
– on south facing sloping sites	Not applicable Not applicable	N/A N/A

– where significant views are oriented away from the desired aspect for direct sunlight • Design drawings need to demonstrate how site constraints and orientation preclude meeting the design criteria and how the development meets the objective	Satisfactory (urban design referral) .	✓
4A-2: Daylight access is maximised where sunlight is limited. • Courtyards, skylights and high level windows (with sills of 1,500mm or greater) are used only as a secondary light source in habitable rooms.	Satisfactory.	✓
• Where courtyards are used: - use is restricted to kitchens, bathrooms and service areas. - building services are concealed with appropriate detailing and materials to visible walls. - courtyards are fully open to the sky. - access is provided to the light well from a communal area for cleaning and maintenance - acoustic privacy, fire safety and minimum privacy separation distances (see section 3F Visual privacy) are achieved.	The void area is open to the sky at level 4. Not provided.	✓
• Opportunities for reflected light into apartments are optimised through: - reflective exterior surfaces on buildings opposite south facing windows. - positioning windows to face other buildings or surfaces (on neighbouring sites or within the site) that will reflect light. - integrating light shelves into the design - light coloured internal finishes		Refer above
4A-3: Design incorporates shading and glare control, particularly for warmer months • A number of the following design features are used: - balconies or sun shading that extend far enough to shade summer sun, but allow winter sun to penetrate living areas - shading devices such as eaves, awnings, balconies, pergolas, external louvres and planting - horizontal shading to north facing windows. - vertical shading to east and particularly west facing windows. - operable shading to allow adjustment and choice. - high performance glass that minimises external glare off windows, with consideration given to reduced tint glass or glass with a reflectance level below 20% (reflective films are avoided).	Level 4 screens are operable while the remaining screens are fixed. Sunshade awnings to the windows along the western elevations are proposed.	✓
Natural Ventilation (4B)		

4B-1: All habitable rooms are naturally ventilated • The building's orientation maximises capture and use of prevailing breezes for natural ventilation in habitable rooms.	Satisfactory	✓
• Depths of habitable rooms support natural ventilation. • The area of unobstructed window openings should be equal to at least 5% of the floor area served	Not all rooms are naturally ventilated. The proposed windows are unsatisfactory or are absent for natural ventilation for the following unit types: • Type 3D – narrow, recessed window to the bedroom for a large awkward shaped room (Building C SW facing) • Internal rooms - There are 43 units where studies and/or unnamed rooms are proposed, which are habitable rooms and some of which are large enough for bedrooms, however, there are no windows provided to these rooms which is inconsistent with this clause including: - Building A - Types 3A, 2A, 2C, 2E, 2F-1, 2F-2, 2G, 4A; - Building B – Type 2H; - Building C – Types 2J, 2M, 2N, 2I and 4D.	**No**
• Light wells are not the primary air source for habitable rooms.	Unit type 3C (x 4 units) includes a bedroom which has a window opening to void/lightwell (Building C).	**No**
• Doors and openable windows maximise natural ventilation opportunities by using the following design solutions: - adjustable windows with large effective openable areas - a variety of window types that provide safety and flexibility such as awnings and louvres. - windows which the occupants can reconfigure to funnel breezes into the apartment such as vertical louvres, casement windows and externally opening doors	There is an over reliance of external fixed aluminium screens to protect visual privacy due to the inadequate building separation which are likely to adversely impact on natural ventilation. This is a concern for the eastern portions of Building A (facing south towards Building B) comprising Unit type 2G and 4A (particularly for the western bedrooms) and Building C (facing north towards Building B) comprising Unit type 2I (particularly for the western bedrooms).	**No**
4B-2: The layout and design of single aspect apartments maximises natural ventilation • Apartment depths are limited to maximise ventilation and airflow. • Natural ventilation to single aspect apartments is achieved with the following design solutions: - primary windows are augmented with plenums and light wells (generally not suitable for cross ventilation) - stack effect ventilation / solar chimneys or similar to naturally ventilate internal building areas or rooms such as bathrooms and laundries - courtyards or building indentations have a width to depth ratio of 2:1 or 3:1 to ensure	As above	

effective air circulation and avoid trapped smells		
4B-3: The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents • **At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed (47.4 units required).**	The plans indicate that 50 units (63.3%) are naturally cross ventilated, however, 9 of those units only achieve this with the use of clerestory windows in the roof (11.4% of units). Only 51.8% of units are naturally cross ventilated without the clerestory windows.	**No**
• **Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.**	The proposed units are generally 10 to 12 metres deep, with some up to 13 metres. The proposed cross through units in Building D are approximately 14 metres deep.	✓
Design Guidance • The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths. • In cross-through apartments external window and door opening sizes/areas on one side of an apartment (inlet side) are approximately equal to the external window and door opening sizes/areas on the other side of the apartment (outlet side)	There are approximately 30 corner apartments as well as several cross through apartments. Satisfactory.	✓
Ceiling Height (4C)		
4C-1: Ceiling height achieves sufficient natural ventilation and daylight access. 1. Measured from finished floor level to finished ceiling level, minimum ceiling heights are: • Habitable Rooms – 2.7 metres • Non-habitable rooms – 2.4 metres **Design Guidance** • Ceiling height can accommodate use of ceiling fans for colling and heat distribution	The proposed ceiling heights are: Min 2.700m – habitable rooms Min 2.400m – non-habitable rooms	✓
4C-2: Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms **Design Guidance** • A number of the following design solutions can be used: - the hierarchy of rooms in an apartment is defined using changes in ceiling heights and alternatives such as raked or curved ceilings, or double height spaces - well-proportioned rooms are provided, for example, smaller rooms feel larger and more spacious with higher ceilings - ceiling heights are maximised in habitable rooms by ensuring that bulkheads do not	Satisfactory	

intrude. The stacking of service rooms from floor to floor and coordination of bulkhead location above non-habitable areas, such as robes or storage, can assist		
4C-3: Ceiling heights contribute to the flexibility of building use over the lie of the building. **Design Guidance** • Ceiling heights of lower level apartments in centres should be greater than the minimum required by the design criteria allowing flexibility and conversion to non-residential uses.	This is not provided, despite this site being within the town centre with half of the site within the E1 Local Centre zone. However, the land use is approved under the concept plan.	**On merit**
Apartment Layout (4D)		
4D-1: The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity. **Design Criteria** **1. Apartments are required to have the following minimum internal areas:** • **Studio - 35m²** • **1 Bedroom - 50m²** • **2 Bedroom - 70m²** • **3 Bedroom - 90m²**	Complies with minimum internal areas. There are no studio or one bedroom units proposed.	✓
The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.	Complies	✓
A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.	Complies	✓
2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	There are 43 units where studies and/or unnamed rooms are proposed as internal rooms, which are habitable rooms and some of which are large enough for bedrooms, however, there are no windows provided to these rooms which is inconsistent with this clause including: - Building A - Types 3A, 2A, 2C, 2E, 2F-1, 2F-2, 2G, 4A; - Building B – Type 2H; - Building C – Types 2J, 2M, 2N, 2I and 4D.	**No**
Design Guidance • Kitchens should not be located as part of the main circulation space in larger apartments (such as hallway or entry space).	Complies	✓
• A window should be visible from any point in a habitable room.	Not achieved for the units outlined above the internal rooms.	**No**
• Where minimum areas or room dimensions are not met apartments need to demonstrate that they are well designed and demonstrate the usability and functionality of the space with	Complies	✓

realistically scaled furniture layouts and circulation areas. These circumstances would be assessed on their merits.		
4D-2: Environmental performance of the apartment is maximised.		
• **Habitable room depths are limited to a maximum of 2.5 x the ceiling height (6.75m).**	Ceilings: 2.7m x 2.5m = 6.75m max room depth.	✓
• **In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.**	The room depth for Unit Type 2A and 2B are 8 and 8.95m respectively, which is unsatisfactory.	**No**
Design Guidance		
• Greater than minimum ceiling heights can allow for proportional increases in room depth up to the permitted maximum depths.	Ceiling heights comply.	✓
• All living areas and bedrooms should be located on the external face of the building.	Complies	✓
• Where possible: - bathrooms and laundries should have an external openable window. - main living spaces should be oriented toward the primary outlook and aspect and away from noise sources.	The majority of bathrooms do not have an external window. Main loving spaces are orientated to the street frontages of the site.	On merit ✓
4D-3: Apartment layouts are designed to accommodate a variety of household activities and needs.		
• **Master bedrooms have a minimum area of 10m² & other bedrooms 9m² (excluding wardrobe space).**	Complies	✓
• **Bedrooms have a minimum dimension of 3m (excluding wardrobe space).**	Complies	✓
• **Living rooms or combined living/dining rooms have a minimum width of:** • **3.6m for studio and 1 bedroom apartments** • **4m for 2 and 3 bedroom apartments**	Complies	✓
• **The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.**	7 metres is the narrowest unit (Type 2D), complies	✓
• Access to bedrooms, bathrooms and laundries is separated from living areas minimising direct openings between living and service areas.	Complies	✓
• All bedrooms allow a minimum length of 1.5m for robes	Complies	✓
• The main bedroom of an apartment or a studio apartment should be provided with a wardrobe of a minimum 1.8m long, 0.6m deep and 2.1m high	Complies	✓
	Complies	✓

• Apartment layouts allow flexibility over time, design solutions may include: - dimensions that facilitate a variety of furniture arrangements and removal - spaces for a range of activities and privacy levels between different spaces within the apartment - dual master apartments - dual key apartments *Note: dual key apartments which are separate but on the same title are regarded as two sole occupancy units for the purposes of the Building Code of Australia and for calculating the mix of apartments* - room sizes and proportions or open plans (rectangular spaces (2:3) are more easily furnished than square spaces (1:1)) - efficient planning of circulation by stairs, corridors and through rooms to maximise the amount of usable floor space in rooms.		
Private Open Space and Balconies (4E)		
4E-1: Apartments provide appropriately sized private open space and balconies to enhance residential amenity		
• **All apartments are required to have primary balconies as follows:** • **Studio - 4m²** • **1 Bedroom - 8m² (Min depth 2m)** • **2 Bedroom - 10m² (Min depth 2m)** • **3 Bedroom - 12m² (Min depth 2.4m)**	The proposal involves the following primary balcony sizes:- None proposed None proposed Complies Complies	✓
Minimum balcony depth contributing to the balcony area is 1m.	Noted, complies.	✓
• **For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.**	Complies	✓
Design Guidance • Increased communal open space should be provided where the number or size of balconies are reduced	Private open space areas comply.	✓
• Storage areas on balconies is additional to the minimum balcony size	Adequate storage areas are provided in the building.	✓
• Balcony use may be limited in some proposals by: - consistently high wind speeds at 10 storeys and above - close proximity to road, rail or other noise sources - exposure to significant levels of aircraft noise - heritage and adaptive reuse of existing buildings	Balcony use on the site is achievable.	✓

In these situations, juliet balconies, operable walls, enclosed winter gardens or bay windows may be appropriate, and other amenity benefits for occupants should also be provided in the apartments or in the development or both. Natural ventilation also needs to be demonstrated.		
4E-2: Primary private open space and balconies are appropriately located to enhance liveability for residents **Design Guidance**		✓
• Primary open space and balconies should be located adjacent to the living room, dining room or kitchen to extend the living space	Complies.	
• Private open spaces and balconies predominantly face north, east or west	All balconies face either north, east or west except Unit type 2M (4 units).	✓
• Primary open space and balconies should be orientated with the longer side facing outwards or be open to the sky to optimise daylight access into adjacent rooms	Most of the balconies face the street with the exception of Unit tyle 2L which solely faces towards the drainage reserve and Building D faces the internal communal open space.	✓
4E-3: Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building **Design Guidance**		
• Solid, partially solid or transparent fences and balustrades are selected to respond to the location. They are designed to allow views and passive surveillance of the street while maintaining visual privacy and allowing for a range of uses on the balcony. Solid and partially solid balustrades are preferred	Ground level have solid balustrades to the balconies/terrace areas while the upper level apartments have glass balustrades. The second level balconies have a combination of aluminium and open railings, while the third level have open balustrades. The fourth level is a combination of glass and moveable full height screens. The proposed balustrades are acceptable.	✓
• Full width full height glass balustrades alone are generally not desirable	Not proposed.	✓
• Projecting balconies should be integrated into the building design and the design of soffits considered	The proposed balconies are integrated into the design of the building with blade walls to protect privacy between balconies.	✓
• Operable screens, shutters, hoods and pergolas are used to control sunlight and wind	There are screens proposed for the fourth storey, while the other balconies are protected by the building structure.	✓
• Balustrades are set back from the building or balcony edge where overlooking or safety is an issue	Complies	✓
• Downpipes and balcony drainage are integrated with the overall facade and building design	Complies	✓ ✓

• Air-conditioning units should be located on roofs, in basements, or fully integrated into the building design	Complies	✓
• Where clothes drying, storage or air conditioning units are located on balconies, they should be screened and integrated in the building design	Condition Conditions – BCA	✓
• Ceilings of apartments below terraces should be insulated to avoid heat loss		✓
• Water and gas outlets should be provided for primary balconies and private open space	Conditions	
4E-4: Private open space and balcony design maximises safety • Changes in ground levels or landscaping are minimised • Design and detailing of balconies avoid opportunities for climbing and falls	Complies	✓
Common Circulation Space (4F)		
4F-1: Common circulation spaces achieve good amenity and properly service the number of apartments	• Building A – **9 units per floor** (Levels 1-3) and 8 units on Level 4 from a single lift core. • Building B – 3 units (Levels 2 & 3) and 2 units (Level 4) from a single lift core; • Building C – 8 units per floor (Levels 1-3) and 7 units (Level 4) from a single lift core; • Building D – 5 units in total	✓ On merit
• **The maximum number of apartments off a circulation core on a single level is eight.**		
• **For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40**	The building is less than 10 storeys.	N/A
Design Guidance • Greater than minimum requirements for corridor widths and/ or ceiling heights allow comfortable movement and access particularly in entry lobbies, outside lifts and at apartment entry door	Compliant ceiling heights are provided.	✓
• Daylight and natural ventilation should be provided to all common circulation spaces that are above ground	Daylight and ventilation are provided to all of the circulation areas as open lobby areas are provided with windows/louvers at both ends of the corridors (Building A and C). Building B has a smaller lobby area which opens to the central portion of the site. Building D does not have a circulation area as access is provided directly from the basement for the individual apartments.	✓
• Windows should be provided in common circulation spaces and should be adjacent to the stair or lift core or at the ends of corridors	Provided as outlined above.	✓
• Longer corridors greater than 12m in length from the lift core should be articulated. Design solutions may include: - a series of foyer areas with windows and spaces for seating	The corridor for Building A is approximately 28 metres (no dimension provided), with no articulation provided. This corridor, however, is an open area (outlined above) instead of enclosed corridors, which has operable	✓ On merit

- wider areas at apartment entry doors and varied ceiling heights	louvers at the western end which allows for light and ventilation. This is considered satisfactory.	
• Design common circulation spaces to maximise opportunities for dual aspect apartments, including multiple core apartment buildings and cross over apartments	Buildings B and D comprise a large proportion of dual aspect apartments with approximately half of the proposed apartments in Buildings A and C being dual aspect/corner apartments.	✓
• Achieving the design criteria for the number of apartments off a circulation core may not be possible. Where a development is unable to achieve the design criteria, a high level of amenity for common lobbies, corridors and apartments should be demonstrated, including: - sunlight and natural cross ventilation in apartments - access to ample daylight and natural ventilation in common circulation spaces - common areas for seating and gathering - generous corridors with greater than minimum ceiling heights - other innovative design solutions that provide high levels of amenity	Refer above	✓
• Where design criteria 1 is not achieved, no more than 12 apartments should be provided off a circulation core on a single level	Max number of 9 apartments (Building A).	✓
• Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled	There are a number of apartment types which result in living and bedroom windows opening onto circulation space, including: • Type 2G (Bldg A, ground floor) – windows to COS (BBQ area) • Type 2I (Bldg C, ground floor) - windows to COS (entry path/outdoor showers) • Type 3C (Bldg C, Levels 1 - 4) – windows to void area	**No**
Objective 4F-2: Common circulation spaces		
Design Guidance • Direct and legible access should be provided between vertical circulation points and apartment entries by minimising corridor or gallery length to give short, straight, clear sight lines.	Complies	✓
• Tight corners and spaces are avoided	Complies	✓
• Circulation spaces should be well lit at night	Complies	✓
• Legible signage should be provided for apartment numbers, common areas and general wayfinding	Proposed at the main entry points.	✓
• Incidental spaces, for example space for seating in a corridor, at a stair landing, or near a window are provided.	The lobby areas for Buildings A, B and C are overlooked from the communal open space areas.	✓
		✓

• In larger developments, community rooms for activities such as owners corporation meetings or resident use should be provided and are ideally co-located with communal open space. • Where external galleries are provided, they are more open than closed above the balustrade along their length.	Indoor communal areas are provided on the ground floor of Building B. Provided.	✓
Storage (4G)		
Objective 4G-1: Adequate, well designed storage is provided in each apartment. **1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:** • **Studio - 4m³** • **1 Bedroom - 6m³** • **2 Bedroom - 8m³** • **3 Bedroom - 10m³** **At least 50% of the required storage is to be located within the apartment.** **Design Guidance** • Storage is accessible from either circulation or living areas. • Storage provided on balconies (in addition to the minimum balcony size) is integrated into the balcony design, weather proof and screened from view from the street. • Left over space such as under stairs is used for storage.	Each of the apartments achieves well-designed storage including internal storage and additional storage within the basement. 50% provided in the apartments with a storage area provided in the basement for each apartment. Complies Satisfactory Satisfactory	✓ ✓ ✓ ✓ ✓
4G-2: Additional storage is conveniently located, accessible and nominated for individual apartments **Design Guidance** • Storage not located in apartments I secure and clearly allocated to specific apartments. • Storage is provided for larger and less frequently accessed items. • Storage space in internal or basement car parks is provided at the rear or side of car spaces or in cages so that allocated car parking remains accessible • If communal storage rooms are provided, they should be accessible from common circulation areas of the building. • Storage not located in an apartment is integrated into the overall building design and is not visible from the public domain.	Complies Basement storage provided Complies Individual storage areas in the basement are provided behind the roller shutter providing secure areas for residents separate from the visitor parking areas. Provided in the basement.	✓ ✓ ✓ ✓ ✓
Acoustic Privacy (4H)		

Objective 4H-1: noise transfer is minimised through the siting of buildings and building layout.		✓
Design Guidance • Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses (Parts 2F and 3F).	Refer to Part 3F.	✓
• Window and door openings are generally orientated away from noise sources.	Satisfactory	✓
• Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas.	Satisfactory.	✓
• Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources.	Satisfactory	✓
• The number of party walls (walls shared with other apartments) are limited and are appropriately insulated.	Satisfactory	✓
• Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	The following apartments are unsatisfactory: • Unit type 2G (Bldg A ground floor) – bedroom windows directly adjoin the COS/BBQ area; • Unit types 2E, 2F-1 & 2F-2 (Bldg A ground floor) which directly adjoin the seating area of the COS area (including bedrooms) • Unit types 2J, 2K & 3C (Bldg C ground floor) which directly adjoins the palm lawn and bocce lawn of the COS area; • Unit Type 2I (Bldg C ground floor) which directly adjoins the surfboard store/outdoor showers of the COS area; • Unit type 3C (Bldg C all floors) where the bedroom directly adjoins the lift core.	**No**
4H-2: Noise impacts are mitigated within apartments through layout and acoustic treatments		
Design Guidance • Internal apartment layout separates noisy spaces from quiet spaces, using a number of the following design solutions: - rooms with similar noise requirements are grouped together - doors separate different use zones - wardrobes in bedrooms are co-located to act as sound buffers	Complies	✓ ✓

• Where physical separation cannot be achieved noise conflicts are resolved using the following design solutions: - double or acoustic glazing - acoustic seals - use of materials with low noise penetration properties - continuous walls to ground level courtyards where they do not conflict with streetscape or other amenity requirements	Complies	
Noise Pollution (4J)		
To minimise impacts the following design solutions may be used: • physical separation between buildings and the noise or pollution source • residential uses are located perpendicular to the noise source and where possible buffered by other uses • buildings should respond to both solar access and noise. Where solar access is away from the noise source, non-habitable rooms can provide a buffer • landscape design reduces the perception of noise and acts as a filter for air pollution generated by traffic and industry	Satisfactory	✓
Apartment Mix (4K)		
4K-1: A range of apartment types and sizes is provided to cater for different household types now and into the future. **Design Guidance** • A variety of apartment types is provided.	Only 2, 3 and 4 bedroom units are provided.	**On merit**
• The apartment mix is appropriate, taking into consideration: - the distance to public transport, employment and education centres - the current market demands and projected future demographic trends - the demand for social and affordable housing - different cultural and socioeconomic groups	Refer above	
• Flexible apartment configurations are provided to support diverse household types and stages of life including single person households, families, multi-generational families and group households	Some of the apartments are much larger than required under the ADG which can provide flexibility in unit configurations.	✓
4k-2: The apartment mix is distributed to suitable locations within the building. **Design Guidance** • Different apartment types are located to achieve successful façade composition and to optimise solar access.	Satisfactory	✓
• Larger apartment types are located on the ground or roof level where there is potential for more open space and on corners where more building frontage is available.	The larger apartments are located on the top level.	✓

Ground Floor Apartments (4L)		
4L-1: Street frontage activity is maximised where ground floor apartments are located **Design Guidance** • Direct street access should be provided to ground floor apartments.	Unit types 2E, 2K and 2L do not have access from the street, arising from the slope of the site.	✓ On merit
• Activity is achieved through front gardens, terraces and the facade of the building. Design solutions may include: - both street, foyer and other common internal circulation entrances to ground floor apartments - private open space is next to the street - doors and windows face the street	Satisfactory.	✓
• Retail or home office spaces should be located along street frontages	Not proposed.	N/A
• Ground floor apartment layouts support small office home office (SOHO) use to provide future opportunities for conversion into commercial or retail areas. In these cases, provide higher floor to ceiling heights and ground floor amenities for easy conversion	Not proposed.	N/A
4L-2: Design of ground floor apartments delivers amenity and safety for residents. **Design Guidance** • Privacy and safety should be provided without obstructing casual surveillance. Design solutions may include: - elevation of private gardens and terraces above the street level by 1-1.5m (see figure 4L.4) - landscaping and private courtyards - window sill heights that minimise sight lines into apartments - integrating balustrades, safety bars or screens with the exterior design.	Satisfactory.	✓
• Solar access should be maximised through: - high ceilings and tall windows - trees and shrubs that allow solar access in winter and shade in summer	Satisfactory.	✓
Facades (4M)		
4M-1: Building facades provide visual interest along the street while respecting the character of the local area. • Design solutions for front building facades may include: - a composition of varied building elements - a defined base, middle and top of buildings - revealing and concealing certain elements - changes in texture, material, detail and colour to modify the prominence of	The design of the facades of the building are unsatisfactory given the faux heritage stylistic appearance which accentuates the buildings overall bulk and scale. This building design is also inconsistent with the contemporary Australian coastal aesthetic which is emerging in the area.	**No**

elements		
• Building services should be integrated within the overall facade	Satisfactory.	✓
• Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale. Design solutions may include: - well composed horizontal and vertical elements - variation in floor heights to enhance the human scale - elements that are proportional and arranged in patterns - public artwork or treatments to exterior blank walls - grouping of floors or elements such as balconies and windows on taller buildings	The proportion of the form accentuates a bulk and massing exacerbated by the three-storey high (fluted) arches and heavy reliance on rendered painted concrete blockwork which will require substantial ongoing maintenance.	**No**
• Building facades relate to key datum lines of adjacent buildings through upper level setbacks, parapets, cornices, awnings or colonnade heights	Satisfactory.	✓
• Shadow is created on the facade throughout the day with building articulation, balconies and deeper window reveals	Satisfactory.	✓
4M-2: Building functions are expressed by the facade		
• Building entries should be clearly defined.	Satisfactory	✓
• Important corners are given visual prominence through a change in articulation, materials or colour, roof expression or changes in height.	Satisfactory	✓
• The apartment layout should be expressed externally through facade features such as party walls and floor slabs	Satisfactory.	✓
Roof Design (4N)		
4N-1: Roof treatments are integrated into the building design and positively respond to the street **Design Guidance** • Roof design relates to the street. Design solutions may include: - special roof features and strong corners - use of skillion or very low pitch hipped roofs - breaking down the massing of the roof by using smaller elements to avoid bulk - using materials or a pitched form complementary to adjacent buildings	The proposed roof design adds significant bulk and scale to the development and is inconsistent with the prevailing character of the area which generally comprises sloping, lightweight metal roofs. The proposed roof for Building D is also out of character with the area and is excessive in its scale and encroaches into the front setback to Casuarina Way. This roof also adds unnecessary bulk and height to the development.	**No**

• Roof treatments should be integrated within the building design. Design solutions may include: - roof design proportionate to the overall building size, scale and form - roof materials compliment the building - service elements are integrated	The roof material does not compliment the building in that it adds more weight to the overall building form and is not of a lightweight construction which is evident on existing development in the area.	**No**
4N-2: Opportunities to use roof space for residential accommodation and open space are maximised. **Design Guidance**		
• Habitable roof space should be provided with good levels of amenity. Design solutions may include: - penthouse apartments - dormer or clerestory windows - openable skylights	Clerestory windows are provided to the top floor level apartments of Buildings A and C and skylights for the penthouses in Building B.	✓
• Open space is provided on roof tops subject to acceptable visual and acoustic privacy, comfort levels, safety and security considerations	Adequate communal open space is provided at ground level.	✓
4N-3: Roof design incorporates sustainability features **Design Guidance**		
• Roof design maximises solar access to apartments during winter and provides shade during summer. Design solutions may include: - the roof lifts to the north - eaves and overhangs shade walls and windows from summer sun	These measures are not provided, although the proposal satisfies the BASIX requirements.	✓ On merit
• Skylights and ventilation systems should be integrated into the roof design	Clerestory windows are provided to the top floor level apartments of Buildings A and C and skylights for the penthouses in Building B.	✓
Landscape Design (4O)		
4O-1: Landscape design is viable and sustainable **Design Guidance**		
• Landscape design should be environmentally sustainable and can enhance environmental performance by incorporating: - diverse and appropriate planting - bio-filtration gardens - appropriately planted shading trees - areas for residents to plant vegetables and herbs - composting - green roofs or walls	Satisfactory from a sustainability perspective, however there are concerns with the variety of plants and trees proposed as outlined in the key issues section of this report.	✓
• Ongoing maintenance plans should be prepared	Condition	✓
• Microclimate is enhanced by: - appropriately scaled trees near the eastern and western elevations for shade - a balance of evergreen and deciduous trees to provide shading in summer and sunlight access in winter		

- shade structures such as pergolas for balconies and courtyards • Tree and shrub selection considers size at maturity and the potential for roots to compete (see Table 4)		
4O-2: Landscape design contributes to the streetscape and amenity **Design Guidance** • Landscape design responds to the existing site conditions including: - changes of levels - views - significant landscape features including trees and rock outcrops • Significant landscape features should be protected by: - tree protection zones (see figure 4O.5) - appropriate signage and fencing during construction • Plants selected should be endemic to the region and reflect the local ecology.	Satisfactory. There are no existing landscaping features on the site which require retention.	✓
Planting on Structures (4P)		
Appropriate soil profiles are provided Plant growth is optimised with appropriate selection and maintenance Planting on structures contributes to the quality and amenity of communal and public open spaces	Satisfactory	✓
Universal Design (4Q)		
4Q-1: Universal design features are included in apartment design to promote flexible housing for all community members. **Design Guidance** • Developments achieve a benchmark of 20% of the total apartments incorporating the Livable Housing Guideline's silver level universal design features.	LHD Silver Level • Type 2C x 4 (Bldg A) • Type 2D x 4 (Bldg A) • Type 3C x 4 (Bldg C) • Type 3D x 4 (Bldg C) Total: 16 – 20.25%	✓
4Q-2: A variety of apartments with adaptable designs are provided **Design Guidance** • Adaptable housing should be provided in accordance with the relevant council policy. • Design solutions for adaptable apartments include: – convenient access to communal and public areas – high level of solar access – minimal structural change and residential amenity loss when adapted – larger car parking spaces for accessibility – parking titled separately from apartments or shared car parking arrangements	Not required under the DCP. There are no accessible car parking spaces provided, however, these are not required under the BC/NCC.	✓ ✓

4Q-3: apartment layouts are flexible and accommodate a range of lifestyle needs. **Design Guidance** • Apartment design incorporates flexible design solutions which may include: - rooms with multiple functions - dual master bedroom apartments with separate bathrooms - larger apartments with various living space options - open plan 'loft' style apartments with only a fixed kitchen, laundry and bathroom	Satisfactory.	✓
Mixed Use (4S)		
Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	Not proposed.	N/A
Awnings and Signage (4T)		
Awnings are well located and complement and integrate with the building design Awnings should be located over building entries for building address and public domain amenity	Not proposed.	N/A
Energy Efficiency (4U)		
Development incorporates passive environmental design, passive solar design to optimise heat storage in winter and reduce heat transfer in summer, natural ventilation minimises need for mechanical ventilation	Complies with BASIX.	✓
Water Management and Conservation (4V)		
Potable water use is minimised, stormwater is treated on site before being discharged, flood management systems are integrated into the site design.	Addressed on stormwater plans (detention) and BASIX.	✓ ✓
Waste Management (4W)		
4W-1: Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents • Adequately sized storage areas for rubbish bins should be located discreetly away from the front of the development or in the basement car park • Waste and recycling storage areas should be well ventilated • Circulation design allows bins to be easily manoeuvred between storage and collection points. • Temporary storage should be provided for large bulk items such as mattresses • A waste management plan should be prepared	The proposed waste management arrangements are satisfactory – refer to key issue and DCP assessment. Provided in the basement which will be ventilated. To be undertaken by the Building Manager. Not provided. Provided.	✓ ✓ ✓ **No** **No**
4W-2: Domestic waste is minimised by providing safe and convenient source separation and recycling		✓

• All dwellings should have a waste and recycling cupboard or temporary storage area of sufficient size to hold two days' worth of waste and recycling	Provided	
• Communal waste and recycling rooms are in convenient and accessible locations related to each vertical core	Buildings A, B and C are serviced by a waste room, while Building D will use building B room. Not proposed.	✓
• For mixed use developments, residential waste and recycling storage areas and access should be separate and secure from other uses		N/A
• Alternative waste disposal methods such as composting should be provided		
Building Maintenance (4X)		
Building design detail provides protection from weathering Systems and access enable ease of maintenance Material selection reduces ongoing maintenance costs	Satisfactory	✓

Attachment C: DCP Compliance Tables

Compliance Table - Section A1 (Residential & tourist Development – Part C) of TDCP 2008

REQUIREMENTS	PROPOSAL	COMPLY
Chapter 1: Building Types		
Block edge residential flat building a. Maximum building and elevation length along the street is 35m.	The proposed building forms have the following approximate lengths: • Grand Parade: - **51.5m – Building A** • Habitat Drive: - **42.5m (Building B)** - 25m (Building A) • Casuarina Way - 28.5m (Building A) - **43m (Building D)** - 11m & 32m (Building C)	**No**
b. Minimum lot size 2,000m².	Site area is achieved (7.354m²)	✓
c. The buildings street elevation is to be articulated to have a base, middle and top.	Council's Urban designer has noted that the arches which extend over three level contributes to the massing of the buildings. The buildings are provided with a top, however, there is no other articulation between the levels.	**No**
d. Front doors, windows and entry areas are to face the street.	Provided	✓
e. Ground level dwellings with a street frontage are to have a pedestrian access from the street.	The majority of ground floor units have individual pedestrian access from the street.	✓
f. Front fencing and landscaping is to be provided within the front setback and is to enhance the character of the street and the building.	The proposal involves an open form style fencing around the site as well as boundary planting to enhance the streetscape.	✓
g. Car parking areas are located to the rear or the centre of lots away from the street front or underground.	Provided as a basement.	✓
h. Block Edge Residential Flat Buildings must comply with the Controls found in this Part.	Noted	-
Chapter 2: Site and Building Design Controls		
Design Control 1: Public Domain Amenity		
Streetscape a. Site design, building setbacks and the location and height of level changes are to consider the existing topographic setting of other buildings and sites along the street, particularly those that are older and more established.	The site is within a recently approved subdivision at Casuarina Town Centre. Adjoining lots are yet to be developed. There are two applications for shop top housing at 9 & 10 Grand Parade and an RFB has been approved at 5 Grand Parade. This is yet to be constructed.	✓
b. The design of the front deep soil zone and boundary interface to the public domain is to complement or enhance streetscape character by: - providing for landscaping; lawn, trees or shrubs	There is a lack of deep soil landscaping on the site, which is considered further in the key issue section of this report.	**No**

characteristic with existing properties or of such design as to enhance the quality and appearance of the dwelling and surrounding area, - reflecting the character and height of fences and walls along the street, or of such design as to enhance the quality and appearance of the dwelling and surrounding area, - reflecting the character and layout of established front gardens of other allotments in the street, particularly older and well established garden landscapes, - retaining, protecting or replacing existing vegetation and mature trees,		
c. Carports and garages visible from public street	Basement parking proposed.	N/A
a. Minimise driveways and hardstand areas to increase area for deep soil zones and landscaping and reduce visual impact of driveways and hard surfaces from street.	There are minimal driveways and hardstand areas along the street elevation.	✓
e. Facades visible from the public domain to be well designed by: - important elements (front doors and building entry areas) prominent building facade and clearly identifiable from the street, - coordinating and integrating building services, such as drainage pipes, with overall facade design, - integrating the design of architectural features, including stairs and ramps, and garage/carport entries with the overall facade design, and by locating car parking structures on secondary streets where possible, - ensuring corner buildings have attractive facades which address both streets frontages, including the careful placement and sizing of windows, - ensuring entrance porticos are single storey.	Generally complies, with the majority of ground floor units with individual entries from the street. Complies There are concerns with the design aesthetic of the proposal and the height of Building D above the street, which is considered further in the key issues section. The Grand Parade façade addresses its corner position. Complies	✓ ✓ **No** ✓ ✓
Public Views and Vistas a. location and height of new developments not to significantly diminish the public views to heritage items, dominant landmarks or public buildings from public places. b. location and height of new development to be designed so that it does not unnecessarily or unreasonably obscure public district views of major natural features such as the water, ridgelines or bushland. c. location and height of new development to be designed so that it does not unnecessarily or unreasonably obscure public view corridors, for example, down a street. d. location and height of new development to be designed to minimise impact on public views or view corridors between buildings.	Acceptable (consistent with the concept plan approval). Satisfactory. Satisfactory. Satisfactory.	✓ ✓ ✓ ✓
Design Control 2: Site Configuration		
Deep Soil Zones a. Deep Soil Zones must be provided for all new developments and existing development, except on non-urban land with site areas greater than 5000m² and development with ground level commercial floor space. b. All sites are to provide two Deep Soil Zones, one to the	Concerns with the proposed deep soil zone (DSZ). Refer above.	**No** **No**

rear and one to the front of the property. c. Rear Deep Soil Zones are to have minimum width of 8m or 30% of the average width of the site whichever is the greater and a minimum depth of 18% of the length of the site up to 8m but not less than 4m. Greater than 8m may be provided if desirable. d. Rear Deep Soil Zones are to have soft landscaping; refer to Landscaping Section. e. Front Deep Soil Zones are to be the width of the site boundary minus the driveway width and the pathway width by the front setback depth. f. Front Deep Soil Zone areas are to have soft landscaping, vegetation and at least one tree. g. Deep Soil Zones cannot be covered by impervious surfaces such as concrete, terraces, outbuildings or other structures. h. Deep Soil Zones cannot be located on structures such as car parks or in planter boxes. i. The Deep Soil Zone is to be included in the total permeable area for the allotment.	The DSZ does not satisfy the minimum width required by the ADG and does not satisfy the objective of providing space for mature tree growth and vegetation. Refer above Refer above Refer above Refer above Refer above	**No** - - - -
Impermeable Site Area a. An allotment's runoff shall be dispersed onto grassed, landscaped or infiltration areas, of the allotment, unless this is inconsistent with the geotechnical stability of the site or adjacent/downstream land. b. The concentration, collection and piping of runoff to the street gutter or underground stormwater system minimised unless inconsistent with geotechnical stability of site or adjacent/downstream land. c. Rain water shall be collected in tanks and reused. d. Site surface depressions in landscaping are to be utilised for on-site detention and infiltration unless this is inconsistent with the geotechnical stability of the site or adjacent/downstream land. e. Runoff is to be minimised, delayed in its passage and where possible accommodated within the landscape of the development site unless this is inconsistent with the geotechnical stability of the site or adjacent/downstream land. f. A schedule of the breakdown/calculation of impermeable site area must be submitted. g. Max impervious surfaces: 60% of lot (>750m²).	The proposal includes an infiltration tank to manage stormwater runoff. The Stormwater Unit has advised this is generally acceptable. Refer above A rainwater tank proposed in the basement. Refer above. The proposal includes an infiltration tank to manage stormwater runoff (refer above). Refer above The plans indicate an impervious area of 84.63% where the control is a maximum of 60%. This exceedance highlights the lack of deep soil areas on the site.	✓ ✓ ✓ ✓ ✓ ✓ **No**
External Living Area a. External living areas are best located adjacent to the internal living (dining rooms, living room, or lounge room) areas so as to extend the overall living space. b. External living areas should be suitably screened to achieve visual privacy if located less than 4m from a side boundary. c. External living areas are to be no closer to the side boundaries than 900mm. d. External living areas are to be designed to ensure water does not enter the dwelling. e. External living areas should be oriented to north where possible.	Complies	✓
Above Ground External Living Spaces, Balconies and Terraces	Pursuant to Clause 6A of SEPP 65, this section of the DCP has no effect.	N/A

Communal Open Space (COS)		
a. COS provided for > 10 dwellings	Provided – refer below	
b. COS is not to be located such that solar access, privacy and outlook to dwellings are reduced.	There are some concerns with the proximity of the COS to bedrooms of adjoining apartments.	**No – refer to ADG**
c. COS must demonstrate how it achieves specific functions that enhance livability and residential amenity and how it will serve needs/number of people within development.	Satisfactorily demonstrated.	✓
d. The location and design of COS must not compromise achieving minimum separation distances and minimum areas for external living areas.	Refer above	**No**
e. COS designed such that its size and dimensions allow for particular uses.	Satisfactorily demonstrated.	✓
Landscaping		
a. Retain existing landscape elements on sites (rock outcrops, watercourses, dune vegetation, indigenous vegetation and mature trees).	There are none located on the site.	N/A
b. On lots adjoining bushland, protect and retain indigenous native vegetation and use native indigenous plant species for a distance of 10m from any lot boundaries adjoining bushland.	The site does not adjoin bushland.	N/A
c. Locate and design building footprint to enable retention of existing trees.	There are none located on the site.	N/A
d. Buildings are not to be sited under the drip line of an existing tree.	There are none located on the site.	N/A
e. Provide useful outdoor spaces for liveability by coordinating the design of external living areas, driveways, parking areas, communal drying areas, swimming pools, utility areas, deep soil areas and other landscaped areas with the design of the dwelling.	Satisfactorily demonstrated.	✓
f. Where ground floor level of a dwelling is above the finished external ground level reached through a door or doorways, there is to be a physical connection made between these levels. Examples of a physical connection include stairs, terraces, and the like.	Generally at natural ground level, with some ramps through the site.	✓
g. Provide a landscaped front garden.	Provided.	✓
h. Pathway with min width 900m to be provided along one side of the dwelling so as to provide pedestrian access from the front garden to the rear yard.	Provided.	✓
i. Landscape elements in front gardens such as plantings are to be compatible with the scale of development.	Provided.	✓
j. Front garden to have min 1 canopy tree with min mature height of 10 metres.	Provided.	✓
k. Where backyard does not have a mature tree at least 15m high, plant a minimum of one large canopy tree in the back yard. The tree is to be capable of a mature height of at least 15m and is to have a spreading canopy.	Refer above	✓
l. Locate and design landscaping to increase privacy between neighbouring dwellings.	Satisfactorily demonstrated.	✓
Planting on Structures		
a. Planting on structures is not to occur in areas that cannot be easily accessed either from dwelling external living areas or communal areas. b. Optimise plant growth by: - providing soil depth, soil volume and soil area appropriate to the size of the plants to be established, - providing appropriate soil conditions and irrigation methods, - providing appropriate drainage.	Satisfactory, however, concern with the proposed reliance on podium planting and other landscaping concerns as outlined in the key issues section.	**No**
Topography, Cut and Fill		
a. Building siting to relate to original form of land.		✓

	Satisfactory. A basement is proposed and the proposed building is essentially at street level on all frontages.	
Design Control 4: Car parking and Access		
a. Carparking is to be in accordance with Section A2 of the Tweed Shire Development Control Plan.	Refer to A2	✓
b. Carparking number concessions may be given to small sites to allow carparking to be fully under the buildings footprint.	N/A	N/A
c. Carparking can be either in an enclosed structure (a garage or basement) or an open roofed structure (a carport).	Basement proposed.	✓
d. Carparking cannot be located within the front setback.	Not proposed	N/A
e. Car park entries are to be located off secondary streets and laneways where these occur.	Complies	✓
f. The driveway width from the street to the property boundary is to be minimised.	Complies	✓
g. Vehicular movement and parking areas are to be designed to minimum dimensions; - to reduce hard surfaces on the lot, and - to increase the area available for landscaping.	Complies	✓
h. On grade carparking cannot occur within 12m of the primary street boundary for flat buildings and 6m for Shop-top.	Not proposed	N/A
Basement Car parking		
a. Basement carparking cannot extend more than 1m above ground where it faces a public street or public space, 1.5m above ground level can be achieved to the side and the rear of the lot where it does not face a public street or public space.	The proposed basement is generally below ground level with the following exceptions: • 1.2m out of ground on western (Casuarina Way) frontage in vicinity of middle dwellings of Bldg D; • 200mm out of ground in north-western corner (Casuarina Way frontage) of Building A near Unit type 2E; • 200mm out of ground along southern (drainage reserve frontage) of Building C near Unit type 3D;	✓
b. A ramp entering off a public street must start behind the boundary. Ramps cannot be located on public land.	Complies	✓
c. Ramps are to be minimised in width.	Complies	✓
d. The walls of basement carparks are best located in line with the buildings footprint. Basement carparking is not to extend outside the external line of terraces, balconies and porches.	Complies	✓
Design Control 7: Amenity		
Sunlight Access		✓
a. Living spaces are to be located predominantly to the north where the orientation of the allotment makes this possible.	Complies with the exception of unit types 2F-1 and 2F-2 in Bldg A and 2M in Bldg C.	
b. Dwellings on allotments which have a side boundary with a northerly aspect are to be designed to maximise sunlight access to internal living areas by increasing the setback of these areas. In these cases a minimum side setback of 4 metres is required.	Cl 6A of SEPP 65 – No effect.	N/A
c. Private open space of the subject dwelling is to receive at least two hours sunlight between 9am and 3pm on June 21.	Cl 6A of SEPP 65 – No effect.	N/A
d. Windows to north-facing habitable rooms of the subject dwelling are to receive at least 3 hours of sunlight between 9am and 3pm on 21 June over a portion of their	Cl 6A of SEPP 65 – No effect.	N/A

surface.		✓
e. For neighbouring properties ensure: - sunlight to at least 50% of the principal area of private open space of adjacent properties is not reduced to less than 2 hours between 9am and 3pm on June 21, and - windows to living areas must receive at least 3 hours of sunlight between 9am and 3pm on 21 June. f.	There are no adverse impacts to adjoining properties arising from overshadowing caused by the proposal.	✓
f. Where existing overshadowing by buildings is greater than this, sunlight is not to be further reduced by more than 20	Refer above	
Visual Privacy		
a. Terraces and balconies off living areas are generally not to be located above ground floor if they overlook neighbours.	Satisfactory	✓
b. Living room and kitchen windows, terraces and balconies are avoid a direct view into neighbouring dwellings or neighbouring private open space.	Satisfactory	✓
c. Side windows are to be offset by distances sufficient to avoid direct visual connection.	Satisfactory	✓
d. Windows of the subject dwelling and those of the neighbouring dwelling.	Satisfactory	✓
Acoustic Privacy		
a. The noise of an air conditioner, pump, or other mechanical equipment must not exceed the background noise level by more than 5dB(A) when measured in or on any premises in the vicinity of the item. This may require the item to have a sound proofed enclosure.	Condition	✓
b. Dwellings located on designated or classified roads are to have double glazed windows where these windows face the road and provide light to living rooms or bedrooms. This is the case whether or not the dwelling has a solid masonry wall to the arterial road.	Not relevant as the site is not located on these roads.	N/A
c. Dwellings located on arterial roads are to have an acoustic seal on the front door to reduce noise transmission.	Refer above	N/A
View Sharing		
a. Building siting is, as far as it is practical, to be designed to minimise the impact on view sharing between properties.	There is no obstructions of any view corridors.	✓
Natural Ventilation		
a. All dwellings are to have operable windows to habitable rooms.	Cl 6A of SEPP 65 – No effect.	N/A
b. Non habitable rooms including kitchen, bathroom & laundry are encouraged to have operable windows.		
c. The plan layout, including the placement of openings, is to be designed to optimise access to prevailing breezes and to provide for cross-ventilation.		
Design Control 9: External building elements		
Fences and Walls; Front, Side and Rear		
a. Front and return fences are to reflect the design of the dwelling.	Satisfactory	✓
b. Front and return fences and walls are to be constructed of materials compatible with the house and with other fences and walls within the streetscape.	Satisfactory	✓
c. Return fences are to be the same height and design as front fences.	Satisfactory	✓
d. Front and return fences can be up to maximum height of 1.5m high with a maximum solid fence height of 600mm, above the solid wall the fence is to have a min. openness ratio of 60%.	The proposed fences are open form with the exception of a 1.8m high rendered wall along the frontage to Building B at the main entry to the site.	✓ N/A

e. Front and return fences may be solid up to 1.5m if located on an arterial road.	Not relevant	✓
f. No Colorbond or timber paling for front or return fences, except were integrated into a design theme that is consistent with the character of the dwelling and streetscape and incorporates appropriate articulation to allow for landscaping.	Not proposed.	✓
g. Fences and walls are not to impede the natural flow of stormwater runoff.	Complies	N/A
h. If located in a bushfire prone area fences and walls are to comply with AS3959 and Planning for Bush Fire Protection 2006, as amended from time to time	Not relevant	N/A
i. A solid front wall may be higher than 0.9m where the topography means a retaining wall is necessary. The height of the retaining wall is to be minimised and is to be compatible with the positive characteristics of the existing streetscape.	Not relevant	✓
j. Fencing is not to obstruct water meter reading.	Complies	
Side and Rear Fences a. Side fences are measured from behind the building line to the rear boundary. Maximum fence height of 2.0 metres. No chain wire fences are to exceed 1.2m in height. b. May include timber paling, metal or Colorbond material. c. For tennis courts or other similar areas, chain wire fences shall be black or dark green plastic coated mesh. Solid fences enclosing these facilities shall not be permitted over 3.6m and shall be a min. off the side boundaries of 600m and off any front boundary by 1m. d. Fences and walls are not to impede the natural flow of stormwater runoff. e. Controls for front fences and walls also apply to secondary street frontages on corner lots measured for the length of the dwelling.	A 1.5m high open form picket fence is proposed.	✓
Roofs, Dormers and Skylights **Controls** a. Relate roof design to the desired built form by: – articulating the roof, – providing eaves, – using a compatible roof form, slope, material and colour to adjacent buildings; and – ensuring the roof height is in proportion to the wall height of the building. b. The main roof is not to be a trafficable terrace. c. Skylights are: – not to reduce the structural integrity of the building or involve structural alterations, – to be adequately weatherproofed, to be installed to the manufacturer's instructions**.**	Buildings A, B and C have a flat roof whilst Building D has a hipped roof. The proposed roof of Building D is not supported (refer to key issues). Eaves appear to be provided for the upper levels. Complies Provided in Buildings A, B and C for the penthouse apartments.	✓ **No – refer to ADG** ✓ ✓
Elevations visible from the public domain a. Design important elements such as front doors and building entry areas to have prominence in the building elevation and to be clearly identifiable from the street. b. Use proportions, materials, windows and doors types that are residential in type and scale. c. Design elevations to reflect the orientation of the site using elements such as sun shading, light shelves and bay windows as environmental controls. d. Coordinate and integrate building services, such as drainage pipes, with overall elevation and balcony design.	Complies Concerns with the overall design aesthetic – refer to key issues Complies Complies	✓ **No – refer to ADG** ✓

e. Coordinate grills/screens, ventilation louvres, carpark entry doors with the elevation.	Complies	✓
f. Integrate the design of garage entries with the building elevation design.	Not proposed	✓ N/A
Corner Building Elevations		
a. Corner building (buildings with two street frontages) elevations are to reflect the architecture, hierarchy and characteristics of both streets.	Complies	✓
b. Building elevations on corner sites are to be oriented to both streets by having windows and doors addressing both streets.	Complies	✓
c. Landscaping, fence and wall treatments on the secondary street frontage are to be similar to the primary street frontage for the length of the building.	Complies	✓
Minor Elements	The letter boxes are provided from the main entry area from Habitat Drive.	✓

Compliance Table - Section A2 (Site Access and Parking) of TDCP 2008

REQUIREMENTS	PROPOSAL	COMPLY
A2.2 – Design Principles		
A2.2.2 - Public Transport, Pedestrian and Cyclist Access and Amenity		
C1. Access and parking treatments pursued to optimise pedestrian, cyclist, public transport and disabled person's access to and within the site.	There are adequate pedestrian pathways into the site which are generally at ground level with the exception of Building D.	✓
C2. Internal footpaths provided for pedestrians and cyclists to move from adjacent streets onto the site and to destinations within the site.	There are clear pedestrian paths through the site to the street frontages.	✓
C3. Internal footpaths clearly identifiable and provide either a direct or efficient corridor to the development.	Complies – refer above	✓
C4. Access and parking design treatments shall ensure safety and comfort of footpath users	Vehicle access is provided from Habitat Drive with compliant access grades and sight distance.	✓
C5. Weather protection for pedestrian movement corridors integrated with the building design.	Awnings are not required on this site.	✓
C6. Bicycle spaces and public transport bus stop seating provided - Table 2.	Refer below.	**No**
C7. Landscaping plan required - location, species and any other landscaping feature. Must not affect sight distances, accessibility to any vehicular or pedestrian traffic area or visibility of road signage.	Complies	✓
C8. Stormwater management plan required - water sensitive urban design, utilisation of landscaped features to disperse, filter and infiltrate carpark runoff.	Provided	✓
C9. Any development requiring 5 or more employee bicycle parking spaces …..	Not required (no commercial development).	N/A

Large Developments (> 5,000m² GFA) **C11**. Public transport impact statement required.	There is a bus stop along the Casuarina Way frontage of the site.	✓
C12. Provide a constructed footpath/cycleway network 10,000 - 20,000m² (GFA) - 300m (from site)	All of the site frontages contain a footpath.	✓
A2.2.3 Vehicle Access and Parking		
C1. Onsite parking provided - Table 2.	See below	✓
C2. Any development involving a use other than dwelling, secondary dwelling or dual occupancy to provide vehicular access to/from site in forward moving direction.	Provided from the basement.	✓
C3. If a dual occupancy is in a 'stacked' arrangement the rear dwelling ….	Not proposed.	N/A
C4. Provide suitable separation and design treatments between large vehicle manoeuvring areas, loading and unloading areas and adjoining residential areas to mitigate impacts within and surrounding the site.	Not proposed.	N/A
C5. Vehicle access from lowest pedestrian and cycle volumes.	Proposed from lowest order road (Habitat Drive)	✓
C6. Driveway access in any CBD strip not supported without justification (breaks active street frontage.	Not located in the CBD	N/A
C7. Porte cocheres not be supported in CBD strip.	Not located in the CBD	N/A
C8. Generally, no new off street parking bays or aisles at street level within 6m of principal property frontage anywhere within CBD sectors (areas 1,2 & 3 of Table 2).	Not located in the CBD	N/A
C9. Tandem or stacked parking not generally favoured. However, a limited number of stacked employee and/or resident spaces considered where suitably justified (min length - 10.4m).	There are 3 pairs of tandem spaces – 6 spaces in total which can be allocated to a 3 or 4 bedroom unit to ensure they are used by the same unit.	✓
C10. Small car spaces will not count towards required number of vehicle spaces in Table 2**.**	There are no small spaces proposed.	✓
C11. Visitor parking incorporated within reasonable and convenient proximity of visitor's final destination with no barriers to pedestrian movement located in between (e.g. public roads).	The visitor parking spaces are now contained within a roller shuttered area with an intercom to access the lifts.	✓
C12. Provide aisles for parcel-pickup facilities or areas for the manoeuvring or docking of commercial vehicles or garbage trucks separate from areas of normal pedestrian/vehicular traffic.	Not proposed as waste is to be collected from the street.	N/A
Large Developments (>5,000m² GFA) **C13**. Provide dedicated rank for minimum of 2 taxis, supported by min 2m wide paved/roofed pedestrian access to building entrance	Not provided, however, Habitat Drive frontage could provide this.	✓
A2.3 – Access and parking Demand Schedule		

<table>
<tr>
<td>RFBs –
• 1 Bed – 1 space (none proposed)
• 2 Bed – 1.5 spaces
• 3+ Bed – 2 spaces
• Visitor – 1/4 units

Bicycle
• Residents – 1 per unit
• Visitor – 1/8 units</td>
<td>Parking requirement
<table>
<tr><th>Unit</th><th>No</th><th>Required</th></tr>
<tr><td>2 Beds (1.5 spaces)</td><td>55</td><td>82.5 spaces</td></tr>
<tr><td>3 beds (2 spaces)</td><td>20</td><td>40 spaces</td></tr>
<tr><td>4 beds (2 spaces)</td><td>4</td><td>8 spaces</td></tr>
<tr><td>Visitors (1/4)</td><td>79</td><td>20 spaces</td></tr>
<tr><td>Total required</td><td>Res
vis</td><td>131 spaces
20 spaces</td></tr>
<tr><td>Bicycle spaces</td><td>Res
Vis</td><td>79 spaces
10 spaces</td></tr>
</table>
<u>Car parking</u>
• 155 residential spaces (24 excess resident spaces)
• 20 visitor spaces provided.

<u>Bicycle parking</u>
34 resident (basement) and 10 visitor (ground level) (45 resident bike spaces deficient).</td>
<td>✓

No</td>
</tr>
</table>

Compliance Table - Section A15 (Waste Minimisation & Management) of TDCP 2008

REQUIREMENTS	PROPOSAL	COMPLY
Part D - Development-Specific Assessment Criteria/Controls		
2.4 Multi-Unit Dwellings (Town Houses, Residential Flat Buildings and Villas)		
Waste Management Plan (WMP) required	A waste management plan is provided.	✓
Minimum collection/storage facilities to be provided: i. Each unit - indoor waste/recycling storage (1 day)	Provided	✓
ii. RFBs - communal waste/recycling storage facilities (Appendix D).	Provided	✓
iii. Multi-unit – N/A	N/A	N/A
iv. Waste storage area - accommodate and manoeuvrer separate garbage, recycling and green waste containers at rate of Council provision.	2000L bins are proposed for waste and 360L bins for recycling. The required number of bins have been provided based on waste generation rates of the DCP (refer below). The storage of the bin tug is provided in bin room for Building B. a ground level bin storage room has been provide for the 2000L waste bins.	✓
v. Multi-storey (10+ units) – bulky waste storage	The waste response states that the bulk waste can be stored in then waste room of Building B however this is too small to provide for such bulky waste as this area already includes the bin tug and other bins.	**No**

The following location and design criteria shall apply to collection and storage facilities:		
a. Townhouse and villa developments.	Not proposed.	N/A
b. Unobstructed and Continuous Accessible Path of Travel (NCC) from waste/recycling storage to Adaptable Housing (AS 4299), principal entrance to each residential flat building and collection point.	Provided via the ramp	✓
c. Each service room and storage area located for convenient access by users and must be well ventilated and well lit.	There has been minor improvements made to the basement with regard to the through movement between the various parts of the basement, particularly to the waste rooms.	✓
d. Where site characteristics, number of bins and length of street frontage allow, bins may be collected from a kerbside location. In instances where kerbside bin collection is not appropriate, bins must be collected onsite. Bins that are collected onsite are to be collected either from their usual storage point or from an onsite temporary holding area located inside the property boundary and close to a property entrance.	The proposed 5 x 2,000L waste bins will be located in the ground level bin room, and placed on the street for collection by Building Manager (to be applied as consent condition where required).	✓
e. Where bins cannot be collected from a kerbside location or from a temporary holding area located immediately inside the property boundary, the development must be designed to allow for on-site access by garbage collection vehicles (Appendix E).	The bins will be placed in a temporary holding area located immediately inside the property boundary prior to collection.	✓
f. Should a collection vehicle be required to enter a property, access driveways and internal roads must be designed in accordance with AS 2890.2.	The bin collection vehicle will not enter the property.	N/A
g. If Council waste collectors and/or waste collection vehicles are required to enter a site for the purpose of emptying bins, then site specific arrangements must be in place.	Refer above.	N/A
h. If bins need to be moved from normal storage areas to a different location for collection purposes, it is the responsibility of agents of the owners' corporation to move the bins to the collection point no earlier than the evening before collection day and to then return the bins to their storage areas no later than the evening of collection day.	Building manager.	✓
i. Water supply for cleaning of bins and waste storage areas.	Provided	✓
j. Design and location of waste storage areas/facilities to compliment the design of the development and surrounding streetscape.	Bin store satisfactory.	✓

k.	4+ storeys - suitable system for transportation of waste and recyclables from each storey to waste storage/collection areas.	Garbage chute provided to each waste rooms.	✓
l.	Garbage chutes must be designed in accordance with Appendix F	Can be a condition.	✓